

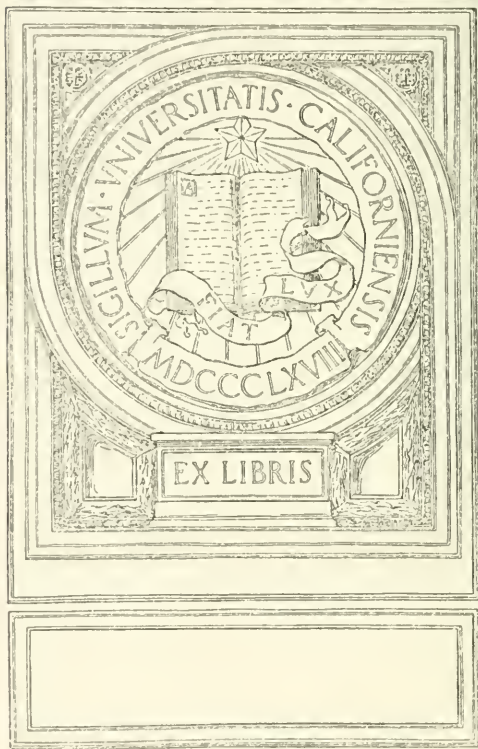
A
A
0
0
0
6
1
0
0
7
2
1



UC SOUTHERN REGIONAL LIBRARY FACILITY

MESSAGE
OF
GOVERNOR SILAS A. HOLCOMB
JANUARY 7TH, 1897.

UNIVERSITY OF CALIFORNIA
LOS ANGELES



EXECUTIVE DEPARTMENT ,
STATE OF CALIFORNIA.

{ APR 8 1897 }

RESPECTFULLY REFERRED TO



Digitized by the Internet Archive
in 2008 with funding from
Microsoft Corporation

MESSAGE

OF

Governor Silas A. Holcomb

TO THE

TWENTY-FIFTH SESSION

OF THE

LEGISLATURE OF NEBRASKA.

RECEIVED
JAN 10 1897
LIBRARY

January 7th, 1897.

To the Members of the Twenty-Fifth Session of the Legislature of Nebraska:

GENTLEMEN: In the discharge of the obligation imposed on me as the Chief Executive of the state to communicate to you such information and recommendations as may suggest themselves, I deem it not inappropriate to express my gratification that this message is presented to a legislative body, a majority of the members of which, I have every reason to believe are in harmony and sympathy with the executive department; and, that we can hopefully look for a hearty accord between the executive and legislative branches of this state government in the respective capacities to which we, the servants of the people, have been chosen by their suffrages to act, respecting the plans to be adopted and the policies we shall pursue. The existence of such harmonious relations will, I am sure, enable us to accomplish much good for our state. I feel confident that every branch of our state government is imbued with an earnest desire to promote the general welfare of our people, advance the prosperity of the state; guard, protect and encourage every interest which will add to the development of its resources and preserve the rights of its citizens.

I feel a deep sense of gratitude to my fellow citizens for the confidence manifested in me by my re-election, and desire only in the future to profit by the experience of the past and thus prove myself worthy of the high honor bestowed upon me.

In administering the affairs of the people in a government such as ours, those chosen for that purpose are but instruments to ascertain and then carry out the will of the people. This should be done with diligence and fidelity. The faithful servant merits and receives the approval of a sovereign people, and enjoys the satisfaction of mind which comes from the knowledge of a duty well performed in the discharge of weighty responsibilities. That the members of this legislature are impressed with the grave responsibilities resting upon each of them, and with the importance of the varied interests of this commonwealth which are for a time committed to their care, I believe and shall assume to be true; that you are determined to

discharge your duties faithfully and fearlessly for the best interests of our beloved state and the welfare of our fellow citizens, I doubt not in the least.

You will doubtless be called upon to solve many difficult and perplexing problems of grave interest to the state, and I feel sure you will give to each important question, as it is brought before you, that mature deliberation and wise consideration which should characterize all legislation affecting the welfare of a great commonwealth.

I am not, in my judgment, overstating the case when I say that at no time in the history of the state has there been more urgent need for wise and intelligent action on the part of the law-making body ; nor a more opportune time for the enactment of prudent legislation. Abuses and imperfections in existing statutes, which permit of inequalities, wrongs and hardships upon a part of our people, should be corrected, bearing ever in mind that the object of all honest legislation is to entirely eradicate, or reduce to a minimum, these various forms of evil in the enforcement of law and order.

As a nation we confidently assert that our people are among the most enlightened and progressive on the face of the earth ; and you have the honor to represent the people of a state having the smallest percentage of illiteracy of any in the union, and who are the peer of any people in the land, in patriotism, intelligence, integrity and love of equality, truth and justice in the affairs of mankind.

Our public schools, colleges and universities testify to the love of our people for education. Situated geographically in the center of the United States, we are afforded every opportunity for constant and mutually profitable intercourse with all parts of our common country. It is to be regretted that partisan newspapers, having seemingly no regard for the public welfare and with a spirit of intolerance entirely out of place where free institutions are admired, have attempted to prejudice the minds of men who are unacquainted with our state and its citizens, by the publication of mendacious and slanderous articles reflecting on the intelligence and integrity of the people of Nebraska. It has been intimated by men high in the councils of our national government, as well as by some newspapers of general circulation throughout the country, that the

present session of the legislature of Nebraska would undertake, by vicious and hostile legislation, to permit the repudiation of the debts of its citizens, to vitiate private contracts and to discriminate in favor of one party to a contract so as to demoralize the business of the people of the state. These wanton attacks upon the free and enlightened people of Nebraska would not be worthy of attention were they not calculated to incite the ill-will of a class of citizens of older and more populous states whose knowledge of Nebraskans is gleaned from newspaper comment, and not from actual contact with our people. It has been threatened that the people of eastern states who have money invested in Nebraska property would withdraw their investments because the majority of our citizens have espoused a different political policy from that having general endorsement in the eastern portion of our country.

These unmerited reflections on the intelligence and integrity of our citizens will not, I am sure, deter you from discharging your full duty to your constituents by enacting any new laws or remedial legislation upon which you may determine. By wise and judicious action, you will dispel any doubts which may exist of the determination of our people to be strictly just to all men; of their capacity, through their representatives, to enact legislation for the protection of all interests in the intimate relations of our own citizens with each other, or with the citizens of other states, and for the conservation of all legitimate business interests.

Nebraska is not the child of any other state or group of states. She is a sovereign state among the sisterhood of states of the union, with equal privileges, prerogatives, duties and responsibilities. Her citizens are intelligent, industrious, honest and patriotic. She has within her borders the natural and acquired resources and all the elements of strength and grandeur necessary to maintain her proud position as one of the foremost states of the union. Nebraskans demand only the right, and that they will maintain, of governing their own affairs, without any desire to infringe upon the rights of any other people.

A sudden change in the business relations existing between citizens of Nebraska and citizens of other states would quite probably work much hardship and unnecessary suffering upon many of our people, yet I am of the opinion that ultimately

greater permanent injury would be wrought to the states and communities adopting such an extraordinary and unusual course towards our citizens. Nebraska is not dependent on any one state or section of the country for the final or complete development of her resources and the comfort and happiness of her citizens ; and she does not appeal as a dependent to have accorded to her citizens the fair treatment and consideration which should, and usually does, exist among the people of one common country, all having a mutual interest in the development of the whole. Rather, she demands this treatment because of the elements of strength in reciprocal relations which she possesses, and the ability of extending inducements to the business world, which make her territory an inviting field for the investment of capital and development of industrial enterprises.

That all property interests now in existence or that may hereafter be established, will be treated with sacred regard and scrupulous honesty should not be questioned. To question it is to doubt the honesty of mankind and challenge the integrity of a nation. Our people deserve friendly relations, commercially and socially, with the citizens of other states, and realize that in the maintenance and extension of mutual, cordial regard, all are alike benefitted.

One and a quarter millions of patriotic, law-abiding people inhabit the State of Nebraska. They have builded thriving cities and villages. They have broken the sod over which the Indian and the buffalo roamed a few decades ago. They are a hardy, independent people, and are proud of the great and growing commonwealth they have created. The fertile fields of Nebraska yield grain sufficient to supply the nation. Horses, cattle, and sheep fatten upon her broad prairies and meadow lands. Thousands of car-loads of pork are shipped annually from her farms to feed the people of other states and countries. Her transportation facilities are unexcelled. She has factories for sugar, for chicory, for the manufacture of dry goods and various other commodities. She has mills for grinding grain ; great packing houses and dairies all over the state—in fact everything which makes a people prosperous in a great agricultural country, and goes to build up a great commonwealth.

These are the advantages which an intelligent, industrious, thrifty and energetic people present to the business world, and they will enable her to maintain, by virtue of merit alone, an honorable position among the great industrial communities of our country.

The more important of the subjects to be considered by you were generally discussed during the recent campaign and the people made known their desires by the election of officers committed to reforms in the management of the state's affairs, thereby rendering it less difficult for you to perform your duty in executing the will of the people thus expressed. I will merely call your attention to such of these important matters as have come under my observation during my term of office.

By a wise provision of the constitution, the officers of the executive department and the heads of all of the public institutions of the state, are required at least ten days preceding each regular session of the legislature to make a report to the Governor concerning the condition of the state's business in their charge, such reports in turn to be submitted to the legislature. These reports were not all presented to me within the time required by the constitution, and I have therefore been unable to give them the consideration I would have desired. They are submitted to you for your careful consideration as they contain much valuable information which will be of great assistance to you in determining the needs of the different departments of the state government and of the various institutions for their proper management for the coming biennium.

RIGHT OF SUFFRAGE.

One of the most important duties devolving upon you as legislators is the amendment of the election laws of the state. The legislature of 1891 very wisely adopted the Australian ballot system and it has undoubtedly had an appreciable effect in purifying our elections. Experience in the use of the Australian system suggests many improvements which will have a tendency to render the perpetration of frauds still more difficult and give additional protection to the voter in the exercise of his right of franchise.

I heartily approve of the general form of our ballot and believe it to be vastly preferable to the so-called "blanket"

ballot system, in which the party tickets are each printed in separate columns, with provisions generally by which the elector can vote the entire party ticket by one mark or stamp. The independence of the voter is encouraged by our system which leads him usually to read the names of the candidates for the various offices before casting his ballot, and he is encouraged thereby not to rely solely upon party designation. It has been urged by some as an objection to the form of our ballot that it is in effect the establishment of an educational test for voting. I do not regard this as a very serious objection. The voter has become accustomed to this form of ballot and any marked change in the general form, in my opinion, is entirely unnecessary and would serve no good purpose.

Other objections, however, are more substantial which I regard more the result of abuses than of the law itself and which can be remedied by proper amendments. As an instance, William J. Bryan was nominated by the democratic party for the presidency. Afterward he was also nominated by the peoples' party for president. A convention of dissatisfied democrats met later and, styling themselves "National Democrats" nominated John M. Palmer for president. The candidates placed in nomination by the Palmer wing for electors, as well as for state offices, were denominated on the official ballot in Nebraska as "democrats" with no means of distinguishing them from the regular democratic nominees. The result of such a course was necessarily the deception of many voters. I would respectfully recommend that such amendments be made to the law as would prevent the use of the party designation by "bolting" factions for the purpose of deceiving voters. The regular party nominees only should appear on the official ballot with the designation of the party which nominated them. Where one candidate has been nominated by more than one political party, the party designations should be so arranged as to permit the elector to express by his vote his party preference as well as his preference for the candidate. Protection should be secured to the voter who, unacquainted with the names of all the nominees on the ticket, is desirous of casting his ballot for the nominees of the party he espouses.

I would also suggest that each party having a fair proportion of the electors in the state be given representation on

the precinct election boards, and that no more than two members of any one political organization be made judges in any election precinct. The representatives of no one political organization should have entire control of any election booth, and, where competent men representing different political parties can be secured, the result must be more satisfactory to all concerned.

I believe this matter might be satisfactorily arranged by vesting the power of naming the judges and clerks of election in the county clerks, or boards of county commissioners, (and the mayors of cities of the first and second classes), restricting them to a choice from lists furnished by the chairmen of the county (or city) committees of the various political parties. Provisions could be made allowing at least one representative on the election board to each political party receiving a certain percentage of the votes cast at the last general election held in the state, and providing that, in no event, should any one party have to exceed two judges and one clerk on any election board.

In order to secure a free and untrammelled ballot for every elector, steps should be taken to prevent coercion, intimidation and undue influence on the part of employers. Every citizen, whatever may be his station in life, should have every protection thrown around him in the exercise of his citizenship. Other states have seen fit to enact very stringent legislation to prevent undue influence on the the voter by his employer. As an instance, the laws of Indiana provide that whoever, for the purpose of influencing a voter, threatens to enforce the payment of a debt, to injure the business or trade of an elector, or, if an employer, threatens to withhold wages or to dismiss from service any laborer in his employment or refuses to allow employes time to attend to the place of election and vote shall be fined not more than \$1,000.00 nor less than \$20.00, imprisoned in the state prison not more than five years, nor less than one year, and disfranchised and rendered incapable of holding any office of trust or profit for any determinate period. The enactment and strict enforcement of some such provision in the election laws of Nebraska would lessen the intimidation of voters and give encouragement to a free expression of the will of the people at the polls. Provisions

should be made directing all employers to allow each elector sufficient time on election day to deposit his ballot.

Some action might very properly be taken to discourage discrimination between political parties by railroad corporations operating within the state. The issuance of free passes to an army of political workers and the giving of special rates for the political meetings make the railroad companies a power in shaping the political destiny of a state. Where this power is all wielded in the interest of one party and to the prejudice of another party, its weight cannot well be over estimated. Railroad companies do the business of the public and should be restrained by wholesome legislation from active participation in party politics. The officers and employes of such railroad companies should be free to vote as may seem to them for their own best interests.

Charges of fraudulent registration in the larger cities of the state have been frequently made and I would suggest the advisability of having the last day of registration at least ten days prior to election day in order that the complete list of voters may be scrutinized by all inquiring citizens and ample time be afforded for the apprehension of those who fraudulently register.

It is obvious that one of the chief sources of corruption in elections is the use of money in providing means or hiring the voter to go to the polls and vote, by this means placing him under obligation and thus unduly influencing his vote, or to hire the voter to stay away from the polls thereby causing him to neglect his duty as a citizen.

In order to encourage and stimulate the free and honest exercise of the elective franchise it has occurred to me that it might serve a good purpose were a non-voting poll tax of reasonable amount levied against each elector who may relieve himself by voting at the general election, or by producing a certificate of sickness or disability or of absence from the county or state. Such a provision might incidentally be made a source of revenue to the state and the burden fall upon a class of citizens who fail to discharge a very important duty devolving upon every qualified citizen. I suggest this idea to you for your consideration.

I hope that you will take the necessary steps for the remedy-

ing of defects in our election laws with a view to giving every possible opportunity for a free and fair expression of the will of the people at the polls.

RELIEF OF DROUGHT SUFFERERS.

When I assumed the duties of the office of governor of the state, two years ago, the people of Nebraska were distressed, not only by reason of the general depression in business affairs, low prices and steady and continued depreciation in property values, but also from the result of an unprecedented and disastrous drought. These adverse climatic conditions were not confined to Nebraska alone but prevailed in various parts of the country. It was an abnormal condition and may not be experienced again during a generation of our people. Absolute want and distress could only be prevented by prompt and efficient organization for the purpose of supplying the pressing needs of the unfortunate drought sufferers until another season should bring the usual bountiful harvest.

I found that, under the direction of my predecessor, steps had been taken looking to a systematic method for collecting and distributing provisions to alleviate the immediate wants of the people in the affected portion of the state. When it became generally known that provisions would have to be made to relieve those impoverished by the drought, there was a generous and spontaneous response from all sections of the nation. The contributions became so liberal that it taxed the ingenuity of those in charge of the distribution of these free offerings to place them in the hands of those most deserving of assistance and, at the same time to not tax the generosity of the benevolent people to a greater extent than absolutely required to prevent suffering.

I deem it my duty, in behalf of the unfortunate people who were affected by this calamity to express to all who so nobly responded to their distress by contributions of provisions or money, and also to the railroad, express, telegraph and telephone companies which so liberally assisted in the work of alleviating suffering, our sincere gratitude and lasting thanks for their manifestations of human sympathy and benevolence exercised during this trying period. Since that unfortunate calamity, as before, Nebraska has been blessed with bounteous crops and the disagreeable experience she passed through appears to her people as a hideous dream.

After the organization of the legislature, an act was passed creating a relief commission, composed of five well known citizens, giving to them entire control and management in the discharge of this important work. The report of the relief commission has been submitted to me and you will doubtless be supplied with copies. You will observe by this report, as well as by reference to the acts of the last legislature, that the state contributed \$50,000, which was placed at the disposal of the relief commission, and an additional sum of \$200,000, which was by the relief commission distributed among the several counties of the state where the people were regarded as being entitled to assistance of this character for the purpose of purchasing seed grain for the following crop season, making a total appropriation by the legislature of \$250,000. In addition to these cash donations by the legislature and the people of the country at large, an immense amount of supplies and provisions of different kinds were contributed, to obtain an accurate estimate of which requires a careful study of the report in detail of the commission. The work of the commission, of necessity, was of the most difficult character, carried on under trying circumstances, and I am of the opinion that the work of distributing supplies was done in a most thorough and systematic manner. I was of the impression at the time, and have since found no reason to change my views, that the organization and method of distribution of relief supplies was upon a cumbersome and expensive plan. By an examination of the report it will be observed that there were funds donated in the sum of \$28,999.38 and realized from the general and special appropriations of the legislature the further sum of \$52,364.70, making a total of \$81,364.08. Of this amount there was expended \$48,113.82 in printing, traveling and transportation charges and office expenses. The freight charges amounted to \$36,809.03, divided into two items, one denominated "transportation" being in the sum of \$30,181.67, and the other designated "in-freight" being in the sum of \$6,627.36, leaving the sum of \$11,304.79 to represent the other expenses of the relief commission in carrying on this work from its inception until its close.

It perhaps is proper to remark in this connection, and it is a source of gratification to myself, as I have no doubt it will be to all others who examine into the details of this work, that our

own people who were more fortunately situated than their brethren contributed most generously to this work of relief and did their full share in alleviating want and distress among their fellow citizens. With a generosity unequaled, the people of every section of our country vied with each other in doing everything necessary to prevent want and suffering. It is to be sincerely hoped that no such calamity will again reduce our people to the necessity of asking or receiving aid from their more fortunate fellow-countrymen; nor is there occasion to believe that under the influence of the ordinary laws of nature they will ever again be called upon to do so. Appreciating the magnificent generosity of our fellow-countrymen, displayed in this instance, Nebraska will ever stand ready to extend a helping hand to the unfortunate and suffering of mankind wherever they may be found.

The drought has not been without its lessons, which will doubtless add much to the material welfare and permanent prosperity of our people. In no state in the union is the rainfall more uniform, both in time and amount, nor can the precipitancy of the moisture be determined with greater accuracy. In any portion of Nebraska a study of the climatic conditions will disclose with reasonable certainty the average amount of rainfall during the crop-growing season, thus enabling the people to determine in what portion of the state they may safely engage in agricultural pursuits, relying upon the natural rainfall to cause the crops to grow to maturity and ripen in perfection. In the extreme western portion of the state, experience has demonstrated that agriculture can not be safely carried on with reliance upon the natural rainfall for a sufficiency of moisture to successfully grow and mature the crops. This condition has been made more apparent by the disastrous season of 1894, and the people have promptly turned their attention to irrigation, which has been developed with great rapidity and which has replaced partial failure of crops with its attending disappointment, want and suffering, with bounteous crops which can be relied upon with certainty as regularly as the seasons follow each other. The non-irrigable portions of the country within this territory being exceedingly well adapted to the raising of stock, the western part of Nebraska is thereby made one of the most inviting fields for intending settlers of any part of the great west.

IRRIGATION.

In the report of the Secretary of State Board of Irrigation will be found much interesting and useful information. It is very gratifying to note the rapid development of this phase of agricultural industry. The work is as yet in its infancy but, so much has been accomplished, it may be confidently predicted that that portion of our state which is in the semi-arid region will soon become one of the most attractive places in any agricultural community. Millions of acres of Nebraska land will be brought under the favorable influences of irrigation and made to produce the most bountiful crops, and there is no limit to the development except by the exhaustion of the water supply before this result has been fully accomplished. The immense wealth, brought into existence through the development of irrigation and that which is created annually by the production of bountiful harvests, gives assurance of plenty and prosperity to the inhabitants of this favored portion of the state.

It will be seen from the records in the office of the Secretary of the Board of Irrigation that there have been completed 3,740 miles of canals and that there are in process of construction 1045.6 miles, making a total mileage at the present time of canals completed and in process of construction of 4785.6. The estimated cost will exceed three million dollars, of which over half has already been expended. This will bring under irrigation 1,207,966 acres of land, increasing the value of the land to the extent of nearly ten million dollars. In addition to this there are applications on file for contemplated canals of a total mileage of 2,946. These statistics can but impress you with the importance of giving to this subject such further consideration as may be necessary to correct any imperfections existing in the present law, and of providing for a continuation of the work so auspiciously begun.

The first general law upon the subject of irrigation was enacted in 1889. This law was found entirely inadequate for the proper development of the irrigation interests of the state. This law was superceded by a much more comprehensive one enacted by the last legislature, since which the work has progressed more satisfactorily and with much greater rapidity. Many suggestions have been made respecting the wisdom of

amending the present law. In considering the subject of amendments, however, I deem it advisable to call attention to the fact that no amendments should be made which would materially change the underlying, essential principles of the present law, which has the sanction of the highest judicial tribunal of our land. The principles involved in this subject having been forever settled by a judicial decision of the character referred to, it would seem unwise, except upon urgent necessity, to so change them by legislation as to render less certain the principles involved and perhaps invite further litigation with its attending tediousness and wearisome delays. The advocates of irrigation interests, as I understand it, favor amending the law relating to the organization of irrigation districts so as to provide for uniform issues of bonds under the direction of the State Board of Irrigation, as well as legislation touching the issue and negotiation of the bonded obligations of the irrigation districts so as to afford the taxpayers all needed protection, as well as having due regard for the interests of those who purchase such obligations. It has also been suggested that an amendment might properly be made with reference to the organization and control of irrigation districts so as to permit every resident freeholder to participate and have a voice in the selection of officers and all other matters pertaining to the affairs of such district; also, that the offices of district treasurer and assessor might be abolished and the duties of these officers be imposed upon the county and township treasurers and assessors. Other amendments to the present law of more or less importance have likewise been suggested, and will no doubt be presented to you for your consideration. I earnestly hope that you may be able to make such needful improvements as may seem advisable to encourage further and to the utmost extent this very important feature of the agricultural development of the state, and that all necessary appropriations may be made in order that the work may be carried on with renewed vigor.

STATE'S FINANCES.

I desire to earnestly call your serious attention to the condition of the state's finances. This is a subject of more than ordinary concern to every taxpayer in Nebraska. Several factors contribute to the unfavorable condition of the

financial interests of the state as we, at present, find them. The very general depression in business and the low prices received for the products produced by the people of our state, are of themselves sufficient to render the state's finances much more unsatisfactory than might be expected under normal conditions. This has prevented the prompt collection of taxes due the state, and required in order to meet its necessary expenditures, so that at the present time it appears there is a very large amount of delinquent state taxes.

In addition to this the method of handling the finances of the state and of meeting its obligations, could, in my judgment, be very much improved upon. Not only is it commendable to secure the prompt collection of taxes levied for the purpose of meeting current expenditures, but also the prompt payment of the taxes thus collected in satisfaction of the state's obligations. Good business judgment would dictate the prompt discharge of the state's outstanding obligations as rapidly as as money may be accumulated by the ordinary method of collecting taxes to meet the same.

From the report of the State Treasurer a brief summary discloses the following as to the state's obligations:

Bonds outstanding, issued in funding the state's indebtedness at the time of the adoption of the present constitution, ...	\$ 449,267.55
Bonds issued under the present constitution in 1891 and yet outstanding, ...	19,000.00
General fund warrants outstanding	1,934,069.13
Total, ...	\$ 2,402,336.68

To meet these obligations we have the following credits:

Sinking fund to meet bonds first above mentioned, ...	\$ 317,840.04
State relief sinking fund to meet bonds last above mentioned, ...	324.39
Uncollected taxes due to the general fund, ...	2,330,692.76
Cash in the treasury, general fund, ...	589,370.39
Total, ...	\$3,238,227.58

In addition to the liabilities already incurred, and of which mention has heretofore been made, there is also the additional liability for current expenditures yet to be made for the re-

mainder of the biennial period for which the last legislature made appropriations, and which can be approximated by ascertaining the total unexpended balances as shown by the report of the State Auditor. These will have to be met from the uncollected taxes above mentioned.

In considering the uncollected taxes it is to be borne in mind that a very considerable part will probably never be paid into the state treasury. While these conditions are not what we would like to have them, and realizing that they have been brought about by extravagance and needless expenditures, and by excessive appropriations covering a series of years, it is yet quite apparent that the indebtedness of the state of Nebraska is comparatively light. It is no greater than that of many other states whose opportunities for creating a large bonded indebtedness are not restricted by the fundamental law as ours. It is interesting in this connection to study the grand assessment roll of the property of the state returned for taxation, showing the total assessed value thereof, for several years, as follows :

1890....	\$184,770,304.54	1893....	\$194,733,124.73
1891....	183,138,236.28	1894....	183,717,498.78
1892....	186,432,376.71	1895....	171,468,207.48
		1896....	167,078,270.37

The census of 1890 discloses that the value of the property of the citizens of this state is estimated to be \$1,275,685,514, and the actual value of the assessable property in the state at this time must be considerably more, and yet, as shown by the assessed valuation of all the taxable property for the year 1896, the valuation is placed at but little over one-eighth of the actual value based on the census returns of 1890.

The large amount accumulated in the general fund mentioned above, \$589,370.39, is one of the features seemingly calling for some comment. It is difficult to understand why this large sum should be allowed to accumulate in the state treasury with so great amount of outstanding warrants unsatisfied. It would naturally be expected that such a considerable sum as this should have been applied to the reduction of the state's indebtedness as rapidly as it accumulated, as is provided by law, and demanded in the exercise of prudent business management in the discharge of a public duty. In de-

fining the general duties of the the State Treasurer, the law provides that he is "to disburse the public moneys upon warrants drawn upon the state treasury according to law and not otherwise." It is also provided in Section 1, of Chapter 93, that "all warrants upon the state * * * shall be paid in the order of their presentation therefor." Section 4 provides that "it shall be the duty of every treasurer to put aside in a separate and sealed package the money for the payment of each registered warrant, in the order of its registration. As soon as money sufficient for the payment of such warrant is received to the credit of the particular fund upon which the same is drawn, such package shall be endorsed with the number and description of such warrant, and the name and address of the person in whose name the same is registered, and interest upon such warrant shall thereupon cease, and such treasurer shall by mail immediately notify the person in whose name the same is registered and shall endorse the date of the mailing of such notice upon such sealed package."

Thus it will be observed that it was the intention of the legislature that no fund should be allowed to accumulate when there were outstanding warrants drawn against such fund, and that as soon as sufficient money should be paid into the state treasury to satisfy each warrant in the order of its registration that interest thereon should cease and the state be thus relieved from further liability on account of accruing interest. While it may be said that a literal compliance with the provisions above mentioned would be very difficult because of the great volume of business carried on in connection with the work of the state treasury, yet its spirit could be fully complied with by making prompt payments on general fund warrants as rapidly as funds accumulated in the state treasury therefor. This act of the legislature, both in letter and spirit, seems to have been entirely ignored and the general fund, against which a large amount of outstanding warrants has always existed, allowed to accumulate to the extraordinary amount of over half a million dollars. This method of disposing of the state's business puts an additional burden upon the tax-payers by the accumulation of a large amount of interest on the unredeemed warrants thus neglected. It also endangers the state's interests through the possibility of losses of money which could properly have been dis-

bursed in cancelling this indebtedness as rapidly as possible. The suggestion that the state is receiving interest on the money thus allowed to accumulate in this unusual manner may properly be met with the statement that such interest is only at the rate of 3 per cent per annum while the state's warrants are drawing 5 per cent. It may further be said that it is the duty of the state, through its representatives, to liquidate its indebtedness as rapidly as funds accumulate in the collection of revenues for that purpose, thereby enhancing the value of its own obligations. Likewise, to the suggestion that it has been a critical period for the banks of the state, as well as for business interests of all kinds, it can be replied that the state is under no obligations, and, in fact, it is a pernicious doctrine to hold that the public revenues may be used for the purpose of strengthening any private interests or enterprises of any character, and especially so where there are superior claims against such funds upon the part of the creditors of the state. The state is not supposed to use its revenues for the purpose of entering into the banking business or to deposit its funds upon any other theory than that they are to be used by the depository only when not required by the state in the ordinary course of its business. It is to be further observed that this fund at one time was within reasonable limits, not exceeding, according to the report of the state treasurer on the 1st of January last the sum of \$52,735.91. Under no process of reasoning can I understand why this further and larger sum should be deposited and allowed to accumulate to the enormous amount mentioned, with obligations of the state pressing for payment and the value of its obligations constantly depreciating, and then, after such large accumulations are permitted, to have the matter explained by the suggestion that these funds could not with safety to the business interests of the state be withdrawn from the depositories.

I am of the opinion that there should be a very radical change inaugurated in the conduct of the financial interests of the state and prompt measures taken to place the state's finances upon a solid footing, as much so at least as surrounding conditions will permit. The accumulated general fund should be promptly applied to the extinguishment of the indebtedness against it. Whether there are legal obstacles which would

prevent your refunding the indebtedness above mentioned contracted prior to the adoption of the present constitution, I am unable to speak advisedly. If it could be done, I would suggest the advisability of refunding all the bonded indebtedness of the state at a rate of interest not exceeding 4 per cent per annum. The issue of such bonds would make a very desirable investment for the idle permanent school fund. This would permit of the transfer of the sinking fund, accumulated and created for the extinguishment of this bonded indebtedness to the general fund. In addition to this you will have the power, as I view it, to authorize the issuance of bonds in the sum of \$100,000 to meet a part of this indebtedness. Provisions of this character would reduce the amount of outstanding warrants very materially and place the state in a much better condition.

There are a number of other funds of smaller amounts which perhaps can be utilized in bringing the state nearer a cash basis in the transaction of its business. I trust that after a full consideration of this important matter you may be able, by the adoption of some plan, to make satisfactory arrangements for promptly meeting all of the state's indebtedness, both bonded and floating.

REVENUE LAWS.

It seems imperative that some action should be taken by the legislature providing for a better method of levying and collecting the revenues necessary for the proper conduct of the governmental affairs of the state. The imperfections and laxity of the provisions of the present law for levying and collecting taxes to meet current expenditures, and the still greater laxity in enforcing these imperfect provisions of law, have brought us face to face with a condition of affairs that renders it impossible to conduct the business of the state without much embarrassment, needless sacrifices and ever-increasing floating indebtedness. Any wise financial policy requires, in my opinion, the collection of revenues sufficient to promptly meet expenditures necessary to be made in the conduct of the state's business. Any other plan ultimately works increased hardships and renders excessive the expenses of state government, because of the uncertainty respecting the satisfaction of the obligations created. The very fact that property is assessed at

so much less than its fair value, renders it very probable that great inequality exists in distributing the burdens of taxation. The man of moderate means is doubtless assessed for much nearer the true value of his property than the individual having large property interests, and, while the approximate percentage of the assessed valuation, as compared with the actual valuation of property is but little less than one-eighth, it is more than probable that the taxpayer with small means and whose property is easily ascertained, pays much nearer one-third of its value, while other large property interests escape with an assessed valuation at nearer one-tenth or one-twelfth of the actual value.

It appears to me there are two principal objects to be secured in obtaining public revenues in support of government. The first is that property of every description, except that which is especially exempted by law, shall be subject to the same burden of taxation according to its value, and this rule should be invoked with absolute uniformity, and with ample provisions to prevent any assessable property from escaping taxation. Second, these burdens should only exist to the extent necessary to support the government administered with honesty and rigid economy. When these two objects have been accomplished, in whatever manner it may be deemed best, there is no just reason for complaint upon the part of any.

Our law provides that personal property shall be assessed at its fair cash value, and real estate, other than leasehold estates, "at its fair value, estimated at the price it would bring at a voluntary sale * * * one-third cash and balance secured by mortgage upon the property." This, as everyone knows, is not done, but on the contrary the less value placed on the property for assessment purposes by the officer having charge of this branch of business, seems to render him much more popular than if he had performed his full duty and assessed the property as the law provides. Just how far this state of affairs can be remedied and what provisions, if any, shall be made looking towards a more stringent enforcement of the law as now existing or a revision thereof, is for you to determine. If property be assessed at too low a valuation, the rate of the tax levy is correspondingly increased. The system of low valuation and high levies creates an erroneous

impression in the minds of many regarding the property values and the seemingly heavy burdens of taxation in the state.

An assessment upon property at its fair valuation would render tax levies exceedingly small, as well as give less opportunity for undervaluation, because of the more fixed and certain standard obtaining, the one and only question being, whether the property has been assessed at a fair value. It is doubtless true that a constant and continued decrease in assessment values has been caused in order that one community or county might not be compelled to contribute more than its just proportion to the state's revenues. Thus a constant struggle is continually going on among assessing officers to value their property as low or lower than the valuations placed by any others. It is also quite apparent that the low assessment of property is some protection to the people in order to prevent extravagance in the conduct of the business of disbursing the public revenues. With a low assessment and limits as to the rate of the levy, the people have some protection against wanton extravagance by those who are charged with the duties of managing the people's business in different capacities, where the disbursement of revenues forms an important part of their duty. In investigating this subject, I have secured a great deal of valuable information from other states, which I will take pleasure in placing at the disposal of this body or any committees which you may select to consider this important subject.

I also, in this connection, desire to call your attention to the provisions of law respecting the method of levying and equalizing the value of property assessed for the purpose of raising revenues for state expenditures. The law provides that the Governor, State Auditor of Public Accounts and Treasurer "shall constitute the state board of equalization * * * * * and it shall be the duty of said board to examine the various county assessments, and to decide upon the rate of the state tax, the state school tax, the state sinking fund tax, to be levied for the current year, together with any other general or special taxes required by law to be levied and to equalize and make the levy of such taxes throughout the state; but such equalization shall be made by varying the rate of taxation on the different counties in case the said board of equalization are

satisfied that the scale of valuation has not been adjusted with reasonable uniformity by the different assessors."

It further provides that "the rate of the general state tax shall be sufficient to realize the amount necessary to meet appropriations made by the legislature for the year in which the tax is levied, not exceeding 5 mills on the dollar valuation. The rate of the state school tax shall not be less than one-half mill, nor more than $1\frac{1}{2}$ mills on the dollar valuation; and the rate of the state sinking fund tax shall not be more than three-fourths of a mill on the dollar valuation in any county in the state." It will thus be observed that this board as a board of equalization shall equalize taxes by varying the rate of taxation on the different counties in case inequalities appear to exist in the valuation of property as returned by such counties. By the limitation of statute preventing a levy of the general fund state tax to exceed 5 mills on the dollar valuation, it has been found necessary by the board of equalization, in order to meet the appropriations made by the legislature, to levy to the full limit allowed by law. Even then the revenues raised for a series of years past have been insufficient. It will thus be seen that the board has found itself unable to equalize taxes by varying the rate of the general fund levy and that the equalization of the valuation of property in different counties has been restricted to the variations permitted in the levy of the state school taxes, which shall not be less than one-half mill nor more than one and one-half mills, and the sinking fund taxes, which shall not be more than three-fourths mill. The margins thus allowed for equalizing these taxes are entirely inadequate and, if this method of equalization shall obtain in the future, I urgently recommend that greater latitude shall be given the board by amending this section of the statute so as to increase the levy for general purposes from 2 to 4 mills on the dollar valuation. This would give a much better opportunity of equalizing the burdens of taxation by varying the levy in different counties as the different valuations may require and yet enable the board to collect the necessary revenues and meet the appropriations made by the legislature.

DEPOSITORY LAW.

The depository law, enacted by the legislature of 1891, has now been in operation for a period of time sufficient under

ordinary circumstances and normal conditions to test its usefulness and advantages, or disadvantages, as the case may be. The wisdom and desirability of such a law have been questioned by many, including those who benefitted by the operation of the previous law, permitting the state treasurer to use all funds of the state under his control for private gain and speculative purposes during his term of office. I have been a warm supporter of the depository law and believe in the wisdom of its enactment. It adds a new source of revenue to the state, and removes the temptation to use public funds for any other purpose than that for which collected. The law itself could be considerably strengthened and I recommend for your consideration the advisability of amending it so as to remedy imperfections which now exist. It is to be remembered that its operation has been during a period when the loss of money, both private and public, has been very general throughout the entire country. I can see no good reason why if the treasurer himself must give a good obligation for the return of funds placed in his hands for safe-keeping, that the same may not reasonably be required of the different depositories. Thus is obtained a divided responsibility and an aggregate security that is far better than a simple obligation for the return of the entire sum. The obligation of each depository should be as strong in proportion to the amount of money secured, as can possibly be had for the entire sum. I am of the opinion that the law has been abused; that it has been used as a means of assisting banking interests which may have been in need of current funds for the transaction of business, when the true rule should have been to have made depositories of banking institutions of unquestioned standing and of unquestioned security, with the object in view of having the funds at all times subject to the call of the state treasurer in the ordinary course of his business.

I would recommend the amendment of the law so as to provide that sureties of state depositories shall be others than those actively engaged in the management of the depository bank; that a depository bond should not entitle the bank to deposit of state money thereunder for a longer period than two years; that the state officers approving the bond should have the right at any time they deem necessary to suspend, as a depository, any banking institution and to direct the state treas-

urer to withdraw all state funds therefrom ; that the state treasurer, in the depositing of state money, should at all times be under the control of the board approving the bond, respecting the amount deposited in any one bank, and that the sureties on all depository bonds shall justify by making oath to the value of their property over and above their debts and exemptions. The general government has found it desirable to designate banking institutions as depositories for funds which would otherwise accumulate in the United States treasury, and I can see no good reason why* this same rule should not obtain in the different states, such depositories being made not only the means for the convenient and expeditious transaction of the state's business, but also a source of income to the state.

At the beginning of my term of office a suit was pending in the Supreme Court to recover the sum of \$236,000. from ex-Treasurer J. E. Hill and his bondsmen. The history of this litigation is familiar to all of you. The money was lost in the failure of the Capital National Bank. That this amount of the state's money was in existence at the time of the settlement of Treasurer Bartley with his predecessor, Hill, no person acquainted with the circumstances could believe for a moment. The money had evidently been lost and no attempt made to account for it at the expiration of Mr. Hill's term of office, except by a transfer of credits on paper in this bank, a bond being prepared and approved making the bank a state depository and this mythical credit being placed to the credit of the state under the depository bond.

The first trial of the case in the Supreme Court resulted in a disagreement of the jury. The case was again tried and the jury found for the defendant. The matter was then argued to the Supreme Court at length upon questions of law, when it was finally decided in favor of the defendant. I am not entirely familiar with the details and intricate meanderings of all the questions of law and fact involved in this important case. I do not doubt in the least but that this money has been lost as a result of mismanagement by those having been entrusted with its collection and disbursement. And it would seem that the responsibility which certainly exists should be located so that the people might regain what has been unlawfully taken from them. It is to be regretted that persons guilty

of gross misconduct and misappropriation of funds belonging to the people of the state are suffered to escape legal responsibility. Whether any further effort should be made to recover this money lost to the taxpayers of the state, I leave it to you to determine.

The legislature made an appropriation for the expense of carrying on this and other suits. There remained after the trial of the first case the sum of \$8,709.19. Upon an opinion from the court, and after conference with the attorneys representing the state, in order to prevent this appropriation from lapsing, a warrant was issued to me for the balance by the state auditor upon a properly certified voucher presented to him for that purpose. The warrants thus drawn were disposed of by me from time to time in order to meet the further expenditures required in this case. After paying all legitimate claims there was covered in to the state treasury the sum of \$4,467.15 yet remaining unexpended of the appropriation. An itemized statement of the expenditures in this case is presented with this message.

PERMANENT SCHOOL FUND.

The constitution and the statutes require that the board of educational lands and funds, consisting of the governor, attorney general, treasurer, secretary of state and commissioner of public lands and buildings, shall, at their regular meetings, make necessary orders for the investment of the permanent school funds; but that none of these funds shall be invested or loaned, except on United States or state securities or registered county bonds. At the beginning of the present biennial period, December 1, 1894, there were on hand of these funds the following amounts, to-wit:

Permanent school	\$ 447,037.63
Permanent university	19,565.63
Agricultural endowment.....	61,955.15
Making the total sum of.....	\$ 528,558.41

These several funds, by a decision of the supreme court, do not come within the provisions of the depository law, and were therefore under the control and disposition of the state treasurer when not invested as above provided, and when idle and uninvested were of no benefit to those who should derive

advantage from the interest in case of investment in interest bearing securities, as contemplated. During the last biennial period but few county bonds have been issued and these were chiefly refunding bonds to take up other outstanding indebtedness. Hence, it has been extremely difficult to secure for the state enough of county bonds to absorb the accumulation of these different funds, to say nothing of the large amount on hand at the beginning of the biennial period. During the year of 1895, the board of educational lands and funds obtained only the sum of \$40,000, being Otoe county refunding bonds, bearing interest at the rate of $4\frac{1}{2}$ per cent. These bonds were obtained at par. During this time a large amount of state warrants, drawing 5 per cent interest, were being issued from time to time. I regarded these warrants as desirable investments for these trust funds, inasmuch as it would provide a ready means for the investment of the entire sum, strengthen the credit of the state and bring its warrants, which were below par, to par value, and, in effect, put the state on a cash basis.

In a decision of the supreme court, concurred in by all of the judges, and found in the 25th Nebraska at page 660, it was decided that state warrants were state securities within the meaning of the constitutional provision referred to. In addition to this, a precedent had been established by the purchase of these warrants under the administration of my predecessor, Governor Crounse. The supreme court, also, in a more recent case, referred to the first decision above quoted in the following affirmatory language: "We must not, however, be understood as holding that warrants against the general fund are not state securities within the meaning of the constitution. Although that question is not presented by this record, following *In re State Warrants*, 25 Nebraska, 659, and *State vs. Bartley*, supra, we assume them to be legitimate investments for the permanent school fund; but if the state, as trustee for said fund, desires to invest in that class of securities, it is required to do so on terms of equality with other investors."

Assuming, therefore, that warrants of this character were legitimate investments for this large fund, and as they were in every other respect a very desirable form of investment, I introduced a resolution before the board of educational lands and funds, at a regular meeting in January, providing for invest-

ment of \$500,000 of this idle fund in warrants already issued and those thereafter to be issued. Some doubt was expressed by some of the other members of the board respecting the legality of an investment of this kind, and, at their request, the resolution was referred to the attorney-general for an opinion, which was finally rendered at the regular meeting in April following. This opinion was, in effect, adverse to the decisions of the supreme court cited above, as well as to the precedent established during the administration of Governor Crounse. The attorney-general held that state warrants were not state securities and were not a legitimate investment under the provisions of the constitution. The opinion was concurred in by a majority of the board, thus cutting off every avenue for a speedy and profitable investment of this fund.

Another resolution was then introduced by me looking towards the investment of the unemployed school fund in United States bonds. In this effort to find the best possible investment after we were prevented from purchasing state warrants, I failed to receive the co-operation of any other member of this board and no investments were made in that direction.

Registered county bonds, the only remaining investments permitted by the constitution, have been purchased from time to time as reported in detail by the state treasurer. These bonds have been purchased upon a basis of interest of $4\frac{1}{2}$ per cent or more. It will be observed that there was secured for the investment of the permanent school funds, county bonds in the total sum of \$345,741.92. There now remains of these trust funds, as shown by the report of the state treasurer, the total sum of \$528,558.41.

A constitutional amendment providing for the investment of this fund in school district warrants, as well as specifically naming state warrants as legitimate investment, was submitted to a vote of the people at the last election, but its adoption is as yet a matter of uncertainty. I think, however, I can safely assume that in any event, the board of educational lands and funds, as constituted by the election of the present officers, will co-operate with me in the investment of this fund in the state securities mentioned, which, if successful, will furnish an ample opportunity for the profitable investment of this entire fund.

Yet, I am of the opinion that as early as practicable, it would be advisable, by constitutional amendment, to make more comprehensive provisions for the investment and management of this trust fund, which is constantly increasing and which in time will grow to enormous proportions. This fund is the patrimony of the children of the state, to be invested and the interest applied for their education. Such a magnificent endowment is well worthy the jealous care and watchfulness of those entrusted with its custody, and it is of the utmost importance that provisions be made for its investment upon advantageous terms, and yet with all reasonable precautions for the permanent safety of the principal. How soon this may be brought about is perhaps yet uncertain.

EXPENDITURES IN STATE INSTITUTIONS.

It has been the custom heretofore for each legislature to make appropriations for the biennial period ending with March 31. Section 19, of article 3, of the constitution, provides that "each legislature shall make appropriations for the expenses of government until the expiration of the first fiscal quarter after the adjournment of the next regular session and all appropriations shall end with such fiscal quarter." The fiscal year begins December 1. The legislature usually does not adjourn until some time during the second fiscal quarter. The time for which such appropriations should be made, according to this construction, would not expire until the last day of the third fiscal quarter, which would be August 31. With this provision in view the state auditor has requested estimates of expenditures to be presented to this legislature for twenty-nine months instead of twenty-four, as has been the custom heretofore, for the purpose of bringing the appropriations up to the time mentioned.

The total appropriations made by the last legislature for the current biennial period were \$2,784,684.60, which may be divided into the following items:

Legislative.....	\$ 125,000.00
Executive offices and state boards.....	592,160.00
University and Normal school	368,441.89
Maintenance of state institutions	938,297.37
Miscellaneous appropriations	760,785.34
Total	<u>\$2,784,684.60</u>

It will thus be seen that of the total appropriations, over one-third are for the maintenance of state institutions. After deducting appropriations for repairs and permanent improvements, the net appropriations for the maintenance of these institutions for 1893 and 1894 were \$884,436; and the net appropriations for 1895 and 1896 were \$835,829.34. The total number of inmates during the period 1893-4 was 2,244, showing a per capita expense for this period of \$394.14; the total number of inmates for the period 1895-6 had increased to 2,538, and the per capita expense decreased to \$329.33. The great bulk of these savings was made in only a portion of the state institutions, and had the same general decrease prevailed in all the institutions the saving would have been much greater. I am of the opinion that still further savings can be made in the expenditures of these different institutions, and for the purpose of giving you all the information possible, I present herewith a tabulated statement showing the total appropriations for the two preceding biennial periods, and the manner in which they were expended, together with the average per capita cost in each of these institutions. This contains also other information which may be of value to you in determining the needs of these institutions for the time for which you shall make appropriations.

SOLDIERS' HOME AT GRAND ISLAND.

The Soldiers' Home at Grand Island has assumed large proportions by the erection of new buildings, cottages and provisions for increased capacity in caring for worthy Union soldiers, for whom it was constructed. Large sums of money are appropriated by each recurring session of the legislature for its maintenance. It now has 205 inmates, a larger number than it has ever had heretofore. The last legislature appropriated \$12,000 for a new addition, together with numerous other sums for permanent repairs and increased facilities in its management in different ways. There has been appropriated altogether many hundred thousand dollars for the erection and reparation of good, substantial buildings. It is not only fitting and proper but it is a duty owed by the people of this state, and cheerfully performed, to make suitable provisions for the support of all worthy and needy survivors of the Union armies in the civil war. I but speak the sentiments of the patriotic

people of Nebraska when I say that no burden is borne more willingly or duty performed with greater alacrity than that which is required in making ample provisions for the maintenance in comfort of these worthy veterans who were the defenders of the Union.

The management of the institution for the past two years has been the most economical during its history. The kind treatment and ample provisions for the comfort and pleasure of the inmates have been all that could be desired. The members of the Visiting and Examining Board, assisted by the Commandant, have been tireless in their efforts to conduct the institution so as to fully accomplish the purposes for which it was established.

BRANCH SOLDIERS' HOME AT MILFORD.

The last session of the legislature passed an act providing for the establishment of a branch Soldiers' Home at Milford by the leasing of land and buildings already constructed. Eight thousand dollars was appropriated to carry into effect this act. It was provided in the act that the land and buildings referred to should, within thirty days after its passage, be leased to the state free of charge for two years, with the privilege of eight additional years for a sum of not exceeding \$800.00 per annum. Under the direction of the Board of Public Lands and Buildings, alterations and repairs have been made fitting the buildings for the reception of inmates. Capt. J. H. Culver was, by this board, appointed Commandant. A full and detailed report for the period ending November 30, has been made by the Commandant and is presented for your consideration. There were 45 inmates in this institution at the time the report was made and a deficiency for its maintenance created up to that time in the sum of \$10,521.20. It is also asked that \$13,500.00 be appropriated for the purchase of this property.

The maintenance of two institutions for the support of disabled and indigent soldiers when the objects sought can be accomplished in one institution, entails an additional and unnecessary expense on the taxpayers of the state. It is true that the general government has provided means for assisting the different states in caring for the veterans of the war by contributing from the general treasury one hundred dollars per an-

num for each inmate of the homes established, but this in no wise changes the rule or the principle just announced. The revenue derived from the general government is the same per capita whether one or two institutions are maintained, and it is our duty to keep within reasonable bounds these different expenditures involving a taxation of the citizens of our state. While I do not recommend unreservedly the discontinuance of the Home at Milford, I ask of you a careful and thorough study and investigation as to the probable demands which will have to be met by our people in providing for these worthy citizens. If the conclusion is reached that all the necessary comforts and conveniences can be as well provided for in the home already established, with reasonable expenditures for increasing its capacity, it is a serious question whether this ought not be done rather than to incur additional expense by maintaining two different institutions. The latter course necessitates the employment of two sets of officers and increased demands for expenditures which might be greatly reduced by concentration of population and the utilization of fixed conveniences which are of sufficient capacity to answer the demands a much larger population would make upon them than exists at the institution at present.

It is true that the location at Milford is beautiful, attractive, and the surroundings very pleasant. The water, I have no doubt, is very healthful and there are, perhaps, some advantages which do not exist at any other institution in the state. These are inducements which appeal for the continuance of this institution, yet it is to be borne in mind that the surroundings and environments can be made very pleasant, and are so in fact, in every institution in the state. State institutions have been located only in places where the people generally have found it very pleasant to establish their homes and rear their children and enjoy the usual degree of happiness allotted to mankind generally.

PENITENTIARY.

By the census of 1890 it was shown that Nebraska had a population of 1,058,910. At the present time it is fair to assume that the population has increased to 1,250,000. By an examination of the report for the biennial period ending November 30, 1894, it will be found that the average number

per year sentenced to the penitentiary was 175½, and the average number per year for the biennial period just closed, as shown by the report of the present warden, is 176½. The number of prisoners confined in the penitentiary November 30, 1894, was 351; while the number imprisoned November 30, last, or at the end of the biennial period, was 275, thus showing a considerable decrease. It will also be observed, by the report of the pardons and commutations submitted herewith, that executive clemency has been exercised with less frequency than during the years previous, and the number paroled only a little in excess thereof. These statistics disclose Nebraska standing in a very enviable position respecting the low percentage of criminality as well as that of illiteracy, thus confirming the axiom that ignorance and vice go hand in hand.

The condition of the penitentiary upon the whole is very good. The present management has taken advantage of the opportunities which have been offered for improvement. A careful study of the history of the penitentiary since its organization will not disclose any two years of its existence during which greater progress was made than during the biennial period just closed. Credit for this condition is due to the efficiency of the management of the present warden who, by a wise and judicious policy, has improved the standard of morals in the penitentiary as well as made large reduction in the expenditures. This good record has been made by the warden despite the fact that he has failed to receive the co-operation of most of those with whom he has had official relations in its management.

The question of the management of penal institutions, is of course, difficult under most favorable circumstances. There are various methods of management, each having warm advocates. While the encouragement of any method of management that will develop the reformatory features of prison life appeals strongly to the sympathetic and humane sentiments of mankind, yet it is to be borne in mind that the place should not be made so inviting that the careless and wickedly disposed will commit deeds of lawlessness without fearing the punishment to follow. The humanity of the present age demands that punishment for violation of law by imprisonment or otherwise shall not be inflicted barbarously, inhumanly, or

in any manner that would tend to stifle the better sentiments of a man, even though a violator of the law; but rather that the punishment shall be humane, yet reasonable, fixed, certain and determined in its character. This may be brought about by confinement in the penitentiary in solitary cells, in restraint of liberty, in strict and rigid discipline, in plain, simple fare, yet plenty and wholesome, clothing of the most common quality and some particular uniform color, and hard, steady and continuous labor during the period of confinement. I do not believe in a sentimentality that would supply to the prisoner, convicted frequently of the most heinous crimes known to mankind, with every luxury, form of amusement or intellectual recreation that would be regarded as special privileges by many who lead a humble yet honest and upright life. I believe in classification of the prisoners, so far as it can be done, with a view of separating the older and more hardened criminals from those who have committed, perhaps under mitigating circumstances, their first offense, and who sincerely repent, desiring to pay the penalty for the broken law, retrieve the mistakes of the past, and lead an honest and upright life. Such prisoners should receive all reasonable encouragement. This, it seems to me, might properly be done by constructing new cells in the new cell-house in the east wing of the penitentiary, which is now used as a chapel. This would render it less difficult to maintain this class of prisoners without coming so much in contact with the more hardened class.

While some advocate changing the striped clothing customary to be used in prisons all over the country, I doubt the propriety of it. I understand it has been tried only in very few prisons and there found to not work very satisfactorily. Its advocates say it is degrading and humiliating for the offender to be required to wear this badge of a broken law. It can be said with equal propriety that it is humiliating to be put in prison and restrained of one's liberty. The logical sequence of such reasoning would be to discharge all the prisoners and tell them to go their way and sin no more. We must come face to face with the practical side of depraved humanity and prison management of such, as well as to have the theoretical.

We have had in this state almost ever since its organization a form of prison management that has been debasing and de-

grading, a system of leasing the penitentiary and the convicts therein to selfish individuals for the purpose of private gain. We have at least rid ourselves of this one objectionable feature of prison management. The last session of the legislature passed an act providing for the annulment of the lease of the prison and prisoners and, also providing an appropriation for the payment of what should be found to be due the lessee by the cancellation of the lease. Under the provisions of the act the lease was cancelled, the appropriation made by the legislature for that purpose being exhausted in the payment. This report is on file in the office of the Land Commissioner. The state is to be congratulated upon the consummation of such a laudable object as that of cancelling this lease, even at the expense it incurred.

After the state had taken full control and possession of the penitentiary and the labor of the convicts, an effort was made by the Board of Public Lands and Buildings to again lease the penitentiary grounds, machinery and labor, thus returning to the objectionable system from which we had just freed ourselves. As soon as the intention of the board came to my notice, I took occasion to communicate to them my views in regard to the matter, in the nature of a protest, asking that the state should assume control of the penitentiary and of the labor of its convicts, except as the same had been contracted out under the old lease, and which by the terms of the act for its cancellation, were to be continued in force during the period for which they were made. The board, however, proceeded to again lease the penitentiary grounds and property, as well as the labor of its convicts, subject to the sub-contracts mentioned. It occurred to me that this contract did not properly protect the interests of the state, was beyond the authority of the board to make, and ought not to be recognized as a legal and binding contract on the part of the state. The warden, being of the same opinion, declined to recognize the validity of the contract. The controversy was submitted to the Supreme Court, and an opinion rendered to the effect that the attempt to again lease the prison and the labor of the convicts was illegal and that the board had exceeded its authority.

After the decision of the Supreme Court, the board called in Mr. James Whitehead, and under the designation of agent

of the board, he assumed to perform some duties connected with the management of the penitentiary, and which might very properly have been done by the warden, under the direction of the board. The report of the board's agent is presented with the report of the Land Commissioner. I am satisfied that he has accomplished nothing that might not have been done by the warden, and that the expenses occasioned by his appointment were utterly needless. It is disclosed by the report of the agent that there has been collected by him, as the proceeds of the labor of convicts, \$14,280.73. Of this amount there was expended \$10,014.97 and paid into the state treasury \$4,115.08. These expenditures I regard as having been made without authority of law. All moneys derived from the labor of convicts should, it would seem, be turned into the state treasury to be drawn therefrom on approved vouchers, as in other cases, in the manner provided by law. The board having the power to make provisions for the proper employment of idle convicts seems not to have exercised this authority, except temporarily from time to time, as shown by the report of the agent of the board. It also appears that the contracts or agreements temporarily entered into were at a much lower figure than heretofore secured.

I have thought it proper to go into details to some extent regarding the history and condition of this institution, as it seems necessary that there should be an entire revision of the law respecting its future management. Under the lease system there have been established different industries at the institution for the purpose of utilizing the labor of the convicts. These industries have been maintained by sub-contractors of the lessee and are yet owned by them. There are now in operation a broom factory, a harness factory, a cooper establishment and an iron foundry. The capacity of these several industries is perhaps large enough to utilize all of the labor of the convicts not required in the management of the institution. If arrangements could be made for the continuance of the work performed in these different establishments at a reasonable rate of wages for the labor of the convicts, with suitable provisions and restrictions to fully protect the rights of the convicts and the morale and discipline, it becomes a question whether, at the present time, the state should attempt to employ all con-

victs on its own account. It would seem advisable to inaugurate some system looking towards the ultimate control on the part of the state of all of the labor of the convicts and that the penitentiary should be made self-sustaining, or as nearly so as possible. Prisons in several other states are, as I am advised, entirely self-sustaining. In adopting a plan of conducting the penitentiary entirely on state account, it would seem the better part of wisdom to begin cautiously and in a moderate way, and by careful experiment determine the best method of utilizing the labor of the convicts without unnecessary expense on the part of the state or loss occasioned by inaugurating an enterprise which can not be successfully carried out. In this is also involved the question of bringing into competition convict labor with that of free labor. The penitentiary should be so conducted as to reduce to the lowest degree possible, with due regard to the interests of the state, all competition with free labor. I can see no objection to the inauguration of a system looking to the manufacture and production of numerous articles required in the maintenance of the different state institutions as a means of providing employment for prison labor and making the prison self-sustaining. This plan has many warm advocates among those who have studied the subject of prison labor. This could be introduced in a small way, and gradually developed as wisdom and experience would suggest until, perhaps, the larger portion of the inmates can thus be employed.

This whole question is submitted to you for your consideration with the hope that a law will be enacted providing for the state's management of the penitentiary, in such a manner as to place the institution on a higher moral plane and provide for the proper utilization of the labor of the convicts while in confinement.

HOSPITALS FOR THE INSANE.

Nebraska has three hospitals for the insane, located at Lincoln, Norfolk and Hastings, respectively. I choose to treat all of them together and in a general way. They have each been managed in a wise, careful and economical manner. The professional treatment has been of a high order and the welfare of the unfortunate wards of the state confined in these institutions has been carefully looked after in all respects. A

visit to any one of these institutions can not but impress one with the high professional skill and orderly management which characterizes it. The welfare of the inmates is improved wherever possible and the utmost kindness and gentleness in caring for them prevails.

A considerable saving has been made in the expenditures per capita. Some further saving can doubtless be made and yet I am inclined to the view that in these institutions the minimum expenditures in their maintenance has been very nearly reached. In caring for the unfortunate insane, it is apparent to the ordinary observer that the necessary employes, as well as officers of such an institution, are more numerous than are required in any other institutional work. The proposition of reducing expenditures further by a reduction of salaries has been suggested to me. I submit it to you for your careful and judicious consideration, without recommendation on my part further than to say that I approve of any effort which may be made to place all salaries and wages of employes of the state upon a basis of equality, as near as may be done, with reference to the character of the work to be performed. "The laborer is worthy of his hire" and all servants of the state, in whatever capacity employed, should receive fair and just compensation and their services should be the very best obtainable, honestly, faithfully and intelligently performed.

The management of each of these institutions has made requests for appropriations to provide additional room. Each is now crowded to its utmost capacity and yet there are a number of insane persons being cared for by the different counties of the state who could be much better and more economically treated in state hospitals. Reasonable provisions should be made to meet the increasing demands upon these institutions in the most economical manner compatible with the welfare of the unfortunates for whom such institutions are maintained. It will be observed that the population of the Hastings Asylum and the Lincoln Hospital are each larger than the Norfolk Hospital. The best results as to economy and efficiency in treatment and management can be obtained as the population of these institutions increases up to a certain limit, which as yet has not been reached in any of them. In view of the fact that the institution at Norfolk has less room

than either of the others, it seems to me that if the legislature shall determine to make appropriations for additional room and it can be provided for with as little cost at the Norfolk institution as elsewhere, it would be advisable to enlarge that institution until its capacity has reached 350 to 400 inmates. The suggestions made by the superintendent of the Lincoln Hospital present some features of economy in the way of procuring additional room with a minimum of expense, which I submit to you for your careful consideration.

The Hastings institution is denominated an Asylum for the Chronic Insane and receives its inmates from the other two, by transfer of inmates after a period of time has shown that the hope of recovery is very slight, thus making it apparent that that institution for the insane, if the intention of the law makers in its establishment be carried out to its fullest extent, will have to have its capacity still further increased, although it now has the largest population of the three. Some interested in the subject of caring for the insane favor the placing of all three of these institutions on an equality, that is, making them all asylums for the insane, without qualifying the different degrees or types of insanity. I do not believe it would be advisable to make any change of this kind at this time and am inclined to the view that the present arrangement has advantages that perhaps overcome any disadvantages or objections that might be urged against its continuance. The request for an appropriation for additional buildings at the Hastings Institution is with a view, I assume, of increasing its capacity so that it may be able to receive inmates from the other two institutions by transfer as rapidly as it shall appear that the condition of the patients renders it advisable to place them in this institution for permanent treatment, as contemplated by the law creating it. It will be observed, however, that no fixed or definite rule can be made in determining just what patient shall be transferred. It will therefore fulfill reasonably well its mission by receiving those seemingly best adapted to transfer only so fast as vacancies may occur by death or recovery, after its maximum number of inmates has been reached. I invite your attention to a careful perusal of the biennial reports of the superintendents of these three institutions, which will give you much valuable information.

STATE INDUSTRIAL SCHOOLS.

By constitutional enactment "the legislature may provide by law for the establishment of a school, or schools, for the safe keeping, education, employment and reform of all children under the age of sixteen years, who, for want of proper parental care or other cause, are growing up in mendicancy or crime." Under this provision the Industrial School at Kearney, for both girls and boys, was first established. Afterwards the legislature, in its wisdom, very properly made provisions for two separate institutions. The one at Kearney was maintained as an Industrial School for boys, and another established at Geneva of the same character for girls. The reports of the superintendents of these two institutions are quite complete and show them to be in a satisfactory condition. While I do not think there has been any extravagance in the management of either of these institutions, I am of the opinion that there is opportunity for greater frugality than heretofore exercised without interfering with the efficiency of the work or reaching the line of demarcation between parsimony and rigid economy. I invite your attention to the improvements suggested by the superintendents. Some of them are well worthy of your careful consideration. I am not prepared to favor appropriations for additional buildings at either of these institutions.

INSTITUTION FOR FEEBLE-MINDED YOUTH.

The work of the Institution for Feeble-Minded Youth, located at Beatrice, appears to be in a satisfactory condition, and I know of no suggestions for improvement to make to you, unless perhaps it is along the line of more rigid economy in its management. I coincide with the views of the superintendent respecting the advisability of making further provisions for a class of citizens who are past what might be termed the school period in an institution of this kind and are yet not fit subjects to be again returned to the county of their residence, there to struggle for a living and be subjected to unfavorable comment, rendering their lives miserable. I am impressed with the view that a large number, afflicted as are these wards of the state, should be cared for and looked after with the same spirit of humane regard as that given to the insane; and yet I am doubtful of the propriety of this legislature making addi-

tional appropriations sufficient to accomplish this much desired result.

INSTITUTIONS FOR THE DEAF AND FOR THE BLIND.

I desire to call the attention of the legislature to the urgent necessity for suitable legislation making proper provisions for the control, government and maintenance of the Institution for the Blind at Nebraska City and the Institute for the Deaf and Dumb at Omaha. These two institutions are so nearly alike in character that I am of the opinion each can be provided for by the passage of a single act. In the treatment of this subject, in speaking of one, I take it that the same remarks will apply as well to the other. The law at present governing the Institute for the Deaf and Dumb is found in Chapter 22, of the Compiled Statutes of 1893; while the law governing the Institution for the Blind is found in Chapter 42 of the same statutes. The law for the governing of the Institute for the Deaf and Dumb was passed in 1875, prior to the adoption of our present constitution, as was also the law governing the other institution. The present constitution provides that a Board of Public Lands and Buildings, consisting of the Commissioner of Public Lands and Buildings, the Secretary of State, Treasurer and Attorney General, shall have general supervision and control of all buildings, grounds and lands of the state, the state prison, asylums, and all like institutions, except those for educational purposes. It was intended by the original enactment of the law governing these institutions that the Institute for the Deaf and Dumb should be controlled by a board of directors, as mentioned in the original act, and the Institution for the Blind should be governed by a board of trustees to be selected by the legislature, as therein provided.

Under the provisions of the present constitution, these institutions could no longer be governed as originally intended, and in the case of the Institute for the Deaf and Dumb, the Board of Public Lands and Buildings assumed control and management, the governor exercising the authority to appoint the managing officers. This institution has been conducted in this manner until the present time.

Respecting the Institution for the Blind, in an early decision of the Supreme Court, found in the 6th Nebraska, page 286, in the case of *State vs. Bacon*, it was decided that this

institution was not an educational institution within the meaning of the section of the constitution heretofore cited and was within the control of the Board of Public Lands and Buildings. Thereafter this institution was under the control and management of that board, the governor appointing the managing officers. In a recent decision, found in the case of *Curtis vs. Allen*, 43 Nebraska, 184, the Supreme Court reversed the decision above mentioned and held that this was an educational institution and not under the control of the Board of Public Lands and Buildings.

That both of these two institutions are educational in their aims and objects rather than asylums or permanent abiding places for the unfortunate blind and deaf, it seems to me hardly admits of argument. The latter decision of the Supreme Court was in accord with the spirit and intention of the law establishing and providing for the maintenance of these two institutions, and if either is found to be educational in its character by a proper tribunal, it must follow as a logical sequence that the other is likewise of the same character; the one being for the purpose of educating the unfortunate children of the state who have lost the sense of sight and the other for those who have lost the sense of hearing. Viewing the subject in this light, and yet not wishing to exercise any control or supervision that might not have the approval of my fellow state officers composing the Board of Public Lands and Buildings, I requested the Attorney General for an opinion as to whether the Institute for the Deaf and Dumb was of the same character and standing as the Institution for the Blind; in other words, whether it was an educational institution or an asylum, within the meaning of the constitutional provisions cited above. In an opinion which will be found in his report, the Attorney General passes upon the question adversely to the position taken by myself. With all due deference to the opinion of the Attorney General, I am convinced that both these institutions are educational in their character and should be treated as such. This view is held by their superintendents, and the method of the work in operation in each of them clearly demonstrates it to be correct.

After the latter opinion of the Supreme Court respecting the legal status of the Institution for the Blind, some effort was

made by the last legislature to enact a law respecting its government and management, but for some reason it failed to pass both branches of the legislature. An effort was then made to fall back on the old law enacted at the time of the creation of these institutions and elect trustees by a joint session of the legislature, as provided by the original act. This section having been abrogated by the adoption of the constitution, I deemed it my duty to refuse to recognize these so-called trustees or any of their acts, believing the action of the legislature to be in conflict with Section 10, of Article 5 of the Constitutional provision governing the appointment of officers created by the the constitution or by law. This resulted in another case in the Supreme Court, in which it was decided that the position taken by me in this matter was correct and that the action of the legislature was in conflict with the constitution. The institution has since been under the control of a superintendent appointed by the governor and responsible to the chief executive for the proper discharge of his duties.

This state of affairs renders the situation in regard to these two institutions unsatisfactory. Assuming, as I have, that the Institute for the Deaf and Dumb is, notwithstanding the action of the Board of Public Lands and Buildings in assuming control, in exactly the same situation as the Institution for the Blind, I recommend a revision of the two chapters referred to. The revised law should provide for the appointment of a board of control or trustees, of three or five members to serve for stated periods with compensation fixed at a certain amount per diem, together with actual expenses, and not exceeding altogether a fixed sum during any one year. They should be required to meet not oftener than once in every three months for the purpose of examining into the general condition of these institutions and taking such action as shall be deemed advisable for their proper conduct and management.

NEBRASKA INDUSTRIAL HOME, AND HOME FOR THE FRIENDLESS.

With a view to aid in the suppression of prostitution, the legislature of 1881 made provisions for the establishment of the Nebraska Industrial Home, to provide shelter, protection, employment and means of self support for penitent women and girls. The government was placed under the supervision of the "Woman's Associated Charities of Nebraska" and an ap-

appropriation of \$15,000 was made to purchase a site and erect buildings. This institution was located at Milford and has since been in operation, doubtless accomplishing great good in the direction intended by its founders.

In 1887 the legislature saw fit to make an appropriation of \$5,000 to establish and provide for the erection of a Home for the Friendless at Lincoln, its management to be under the supervision of the Society of the Home for the Friendless. Hundreds of homeless children and aged women have been cared for at this institution during its existence.

The similarity of these two institutions is marked. Each originated with an organized society of benevolently disposed, christian women, who desired to benefit society by rescuing fallen women and providing a comfortable home for those whom unfortunate circumstances had cast helpless upon the world.

At each recurring session of the legislature, liberal appropriations have been made for the maintenance of these institutions, and at the present time the state is almost the entire support of each of them. I am in some doubt regarding the propriety of the state assuming the financial responsibility and not having equally the responsibility for the government and management of them. The conditions under which they are now managed and maintained bring a sense of responsibility and primary duty upon the part of the governing officers to the the associations referred to rather than to the state. Heretofore there has been more or less contention and controversy respecting the authority of the state in the management of them, though I am pleased to say that for the two years past the relations have been of the most pleasant and amicable character. It seems to me it is a sound proposition, however, that the state should have the complete and absolute control and management of all its institutions and that the officers should be responsible alone to the state for the faithful and intelligent discharge of their duties. The institutions under consideration are of a peculiar character, and as the women seem to be better adapted to know the needs and best methods of conducting them, it might be well to provide for a government by a board of women who should be directly responsible to the state for the manner in which they discharge their duties. This plan would serve the purposes and fulfill the objects sought by their

founders, and yet bring the institutions within the complete control of the state, where, in my judgment, they properly belong, if the state is to be held responsible in any way for their management and government.

CONTROL OF STATE INSTITUTIONS.

The interests of the state in these public institutions amounts to millions of dollars and there are expended annually large sums of money for their maintenance in conducting the business for which they were constructed. They should each be governed and controlled in such a way as to bring about the greatest harmony between the several institutions, as well as the greatest economy in their management in the interest of the taxpayers of the state. Their control and management heretofore by different bodies, and as many different methods, has been productive of much needless expense and friction as to the policies which should obtain. This fact, I doubt not, has become quite apparent to every executive of the state of Nebraska. Governor Boyd in his closing message to the legislature speaks of this matter as follows :

“And in this connection I would further call your attention to the fact that there are a number of state institutions over which the authority of the executive has been by statute taken from him. In the case of the Industrial School for Boys at Kearney, of the Industrial School for Girls at Geneva, of the Institute for Feeble-Minded at Beatrice, and of one or two others, the appointing power is vested in the Board of Public Lands and Buildings. This board is also by the constitution given full control of all institutions, and the executive has no check upon them whatever. This should not be so. The Governor should have the power to appoint the superintendents and managing officials in every one of the state institutions ; and I would recommend that this legislature so amend this statute, that the appointing power shall be fully restored to him.”

My predecessor, Governor Crounse, likewise took occasion to express his views on this same subject in the following language :

“In the case of some of the institutions of the state the governor appoints the superintendents and other officers, while in others this authority is given to the Board of Public Lands

and Buildings. This is wrong. The Governor should be charged with the appointment in all these cases, and he alone should be responsible to the people for his action. The responsibility for a bad appointment should not be a divided one, and one not directly traceable or chargeable to any one person. Considerations of a political or partisan character may be opposed to a favorable acceptance of this recommendation at this time, still sound legislation should not be avoided for fear of the loss of some partisan advantage. It is unfortunate that the heads of some institutions, in cases where to fitness experience has been added should become the sport of political fortune, and for good reasons only should tried and experienced officers be replaced."

To all that has been said by these two gentlemen on this subject, I can give my hearty approval. I am quite well convinced that a more satisfactory administration of the affairs of these various institutions can be secured when there is one responsible head to whom each must be required to account for the faithful discharge of the duties of his position, and that a fixed and well defined policy deriving its source from one head may be inaugurated which will work advantageously in each of the institutions. In my judgment it was never intended by the constitution that the Board of Public Lands and Buildings, therein created, should have the control and supervision of the administrative and governmental part of these different institutions, but rather, as their name implies, and as expressed in direct terms by the constitution, they should have control of the public lands and public buildings, to look after, to care for the repairs and improvements, the erection of new buildings when provided for by the legislature, and such other control and supervision as pertain to the buildings and lands belonging to the state, as distinguished from the care, maintenance and control of the inmates of such institutions. There has been almost continually, since the enactment of the law defining the duties of the Board of Public Lands and Buildings, more or less difference between that board and the executive regarding the powers and duties of each, and this without regard to whom may have been occupying each of the respective positions. This ought not to be permitted to exist, and the duties of this board should be made clear, specific and well defined,

and provisions made so as to prevent any differences respecting the duties of executive officers and this as well as other boards created by statute. This board by law is now required to approve vouchers for expenditures made by many different boards, as well as the vouchers required in its own expenditures. An auditing board should doubtless exist to approve the vouchers issued by the heads of the different departments in state institutions, as well as by boards when created with authority to incur indebtedness or make expenditures in the discharge of their duty. This board might very properly be composed of two or three state officers, the auditor being one, as these duties pertain very naturally to the duties of his own office, each voucher upon the state treasurer having to be presented to him and there approved before the issuance of a warrant. The board of purchase and supplies incurs much indebtedness in supplying the different state institutions. This board should be required to approve its own vouchers and then be passed to the auditing board for final approval before the issuance of a warrant on the state treasury for the amount of the claim.

A very slight modification of the law regarding these subjects would obviate needless confusion and encourage a more harmonious administration of state affairs. It would also provide for a better system of approving vouchers upon which warrants are drawn against the state treasury.

UNIVERSITY OF NEBRASKA.

The state university is in a very flourishing condition. The excellent work in the educational field occupied by this institution under the direction and efficient management of the chancellor is very gratifying to all citizens of the state. The high rank which it occupies among similar institutions of the land testifies to the excellent work which has been performed. The university educational work has been extended so as to provide a practical training for a short period of time in the varied branches of agriculture for those who are unable to avail themselves of the opportunity afforded to take the prescribed course in the college of agriculture and yet wish to prepare themselves for active and intelligent work in agricultural pursuits. In a state such as ours, where the agricultural interests are paramount to all others, it seems to me that an

effort to promote this feature of university education must find much cordial support by the people generally. In considering the needs of the institution especial attention is requested to this branch of the work which is now in process of development.

The law provides for two funds to be used in support of this institution; first, the endowment fund, to be invested and the interest of which only can be used in its support; and, second, the regents' fund, which shall consist of the proceeds of the investment of the endowment fund, the annual rental of the university and agricultural college lands, the matriculation and other fees paid by students and a tax of three-eighths of one mill on the dollar valuation of all taxable property. From this it would appear that it was the intention to have the university supported from these funds rather than from an appropriation from the general fund, unless for repairs and permanent improvements. The condition of the state's finances would seem to emphasize the necessity for adherence to this method of deriving revenues for the current expenditures of the institution as nearly as possible, without injuring its usefulness. The estimate of the expenditures call for an appropriation from the general fund of \$24,500 and, also, \$50,000 for permanent improvements.

While I am strongly impressed with the necessity of economizing wherever possible in making appropriations for the expense of state government, I bespeak for this highly useful institution a liberal support sufficient to maintain its various departments unimpaired. The report of the regents for the biennial period just closed will be submitted to you and is worthy of your careful consideration. It is an improvement on all past reports in its thoroughness and the attention given to details respecting the past management and the future requirements of our university.

STATE NORMAL SCHOOL.

The State Normal School, located at Peru, appears to be performing the work for which it was constructed in a very satisfactory manner, and meeting the full expectations of the friends of education all over the state. I am advised that the attendance of those who are preparing themselves to become instructors in the public schools is fully up to if not surpassing

its previous history. That the educational work in all of its varied branches is being successfully prosecuted, is evident.

Your favorable consideration is invited to the requests of the board of trustees for appropriations needful in conducting the affairs of the school for the coming biennial period. Considerable is asked for the construction of new buildings. In view of the state's finances and the ever increasing burden of taxation, I am not prepared to favor any appropriations for new structures at the different state institutions, except where, after a thorough investigation, they seem to be absolutely required in order that the institution may efficiently carry on the work for which it was intended, and where the withholding of such appropriations would cripple the usefulness of such institutions.

MAXIMUM FREIGHT LAW.

It is provided by section 4, of article 11, of the constitution, that "railways heretofore constructed, or that may hereafter be constructed in this state, are hereby declared public highways, and shall be free to all persons for the transportation of their persons and property thereon, under such regulations as may be prescribed by law, and the legislature may from time to time pass such laws establishing reasonable maximum rates of charges for the transportation of passengers and freight on the different railroads of this state. The liability of railway corporations as common carriers shall never be limited."

Section 7 provides: "The legislature shall pass laws to correct abuses and prevent unjust discrimination and extortion in all charges of express, telegraph and railroad companies in this state, and enforce such laws by adequate penalties to the extent, if necessary, for that purpose, of forfeiture of their property and franchises." *

Under the constitutional power thus conferred, efforts have been made from time to time by the different legislatures to enact laws to establish reasonable maximum rates and to prevent discrimination and abuses to the patrons of such roads. The legislature in 1893 enacted a maximum freight rate law which was approved by the governor and thereby became one of the laws of the state. The enforcement of this law was resisted by different railway companies and a suit instituted to

prevent the board of transportation from enforcing the provisions of the act. A trial in the United States circuit court for the district of Nebraska resulted adversely to the state, the decision being rendered November 23, 1894. The last legislature made suitable provisions for the prosecution of an appeal to the supreme court of the United States. It was presumed at that time that the case could be taken to the supreme court and there disposed of in a short time and the validity of the act in question be determined. An argument of the case was had in the supreme court in May, 1896, and the case submitted for decision. Within a few weeks the case was, by the court, restored to the calendar and a reargument ordered. This argument has not yet been had. For some reason, to me unknown, a stipulation was entered into between those representing the state and the attorneys for the railroads postponing a hearing on a motion to advance the case for reargument until some time during the present month, and it seems now hardly reasonable to expect a final decision on this important question until some time during the spring months. I am unable to lead myself to believe that the delays occasioned in the final hearing of this case are at all necessary, but, on the contrary, am strongly impressed with the conviction that the case, being of so much public importance, ought to have been finally disposed of long ere this. It seems to me that the grave questions involved are of sufficient importance to warrant an order of advancement by the tribunal hearing the case, and a decision at the earliest opportunity consistent with its proper consideration by those who have to pass upon the legal questions involved. It is to be hoped that a final and speedy hearing will be obtained at an early date, and thus enable the people of the state to ascertain what, if any, further or different legislation may be required in order to carry out the intention of the provisions of the constitution just quoted. Until the case is finally determined, it would seem that nothing further in the way of enacting a law establishing reasonable maximum freight charges by the legislature can with safety be attempted.

BOARD OF TRANSPORTATION.

Under the second constitutional provision, the legislature has established a Board of Transportation, giving to such board power to prevent unjust discrimination, and to fix rea-

sonable rates for the carrying of freights, and in general to carry out the provisions of the act creating such board. A board thus established, properly enforcing the law, can serve a good purpose in preventing unjust discrimination or exorbitant rates for the carrying of freights by the different railroads of the state. Its usefulness depends very much on its ability to enforce the laws. If the board has not sufficient authority, as now constituted, to fulfill the objects of its creation, the law should be amended so as to give it more extended powers. The necessity for the maintenance of an office charged with the duties of enforcing all provisions of the law regulating railroad traffic in the state, is quite obvious to all.

The people of the state, I am satisfied, prefer an elective railroad commission rather than the commission as now created. This they are unable to accomplish until our fundamental law shall be amended providing for these additional executive officers. A constitutional amendment looking to that end was submitted to the electors at the last general election, the adoption of which is quite doubtful. Until such a commission can be provided for by constitutional amendment, whatever relief that may be obtained, must be secured through a board of transportation or railroad commission composed of executive officers already created by the constitution. I am unable to see why, if an elective commission may be empowered to give to the people any relief from unjust discrimination or overcharges, why the same powers may not be given to a commission composed of executive officers as now existing under the constitution.

Many other states have commissions either created by the constitution or otherwise, whose duty it is to regulate and control railroad, telegraph and express traffic. The work of these commissions in many states seems to be very satisfactory. A study of the reports of these different commissions is quite interesting and secures to one much valuable information respecting so important a subject.

I am of the opinion that our Board of Transportation laws may be amended in many respects so as to give greater powers and more latitude in the operation of the board in the enforcement of the law, thereby assuring a better administration of this important feature of state government. It would also seem ad-

visible to give to a Board of Transportation not only the right to control railroad traffic, but also that of telegraph and express companies doing business between points within the state.

This entire matter is submitted to you with the hope that, if any changes in our present law are found to be advisable, the subject may be legislated upon by you so as to bring about equitable dealings between these several corporations and their patrons. While protecting the rights of the individual, every consideration which wisdom and justice requires should be given to the corporations whose business is thus sought to be regulated.

NEBRASKA NATIONAL GUARD.

The report of the Adjutant General shows that during the past two years, the National Guard of this State has made great improvement in its knowledge of military duty, and that the equipment is sufficient, with the exception of a few articles, to enable it to take the field for active service in or out of the state. There is yet much to be done to bring the Guard up to the accepted standard of efficiency, and that can be accomplished only by careful, theoretical instruction of the commissioned officers in military science, and practical instruction of the whole Guard in annual encampments. The National Guardsmen are volunteers ready for duty whenever emergency demands their services. By personal application, and in a great measure at their own expense, they are learning the routine of the drill, the requirements of military discipline and acquiring the minutia of duty.

The proper maintenance of the National Guard of the State requires that reasonable appropriations should be made to bring the services to a high state of efficiency. While the law expressly provides for annual encampments for instruction, the appropriations have heretofore been insufficient and only one encampment had been held during each biennial period prior to my administration. After the encampment at Hastings in 1895, it was found that a great saving had been made by economical management, and the officers of the Guard in consultation were unanimously of the opinion that the good of the service and the requirements of the law demanded the annual encampment held at Lincoln in 1896. While the available appropriation was insufficient, the guardsmen were willing to

accept half pay and look to this session of the legislature for the balance. The two encampments were held at an average cost of \$14,219.87, a saving of \$4,342.27 on each encampment, as compared with the encampment of 1894.

The indebtedness of the Guard as a result of the last encampment is \$5,441.94 more than there remains of the funds on hand. Several hundred dollars will be required to bear expenses until the end of the biennial period, increasing the deficiency to about \$6,000.00. A slightly increased appropriation over that usually made will enable the Guard to comply with the requirements of the law in the matter of holding annual encampments and keep the service in a high state of efficiency. This would seem to me to be advisable. The excellent condition of the state's militia is due in a great measure to the efficient management of the Adjutant General, Brig. Gen. Patrick H. Barry. The Guard is also indebted to Major Edmond G. Fechet, of the Sixth Cavalry, U. S. A., for valued service in instruction.

Your attention is invited to the need of a thorough revision of the militia law. It has been found that the present law, in many instances, does not meet the requirements, and also that several of the sections are exceedingly ambiguous. Your attention is especially invited to section 22, which is clearly in direct violation of the laws of the United States.

There are now deposited in the office of the Adjutant General the Battle Flags of the First Nebraska Infantry, and the flags and guidons of the First Nebraska Cavalry, together with other very valuable relics of the late civil war. I would recommend that those flags be placed in hermetically sealed cases, to preserve them from atmospheric destruction. As these are symbols of the heroism of the Nebraska Volunteer Soldiers, they should be guarded sacredly by the state.

LABOR BUREAU.

The bureau of labor and industrial statistics has been greatly handicapped by the meager appropriations made by the last legislature. This bureau should be maintained and suitable appropriations made in order to carry on the work intended by its creation. The gathering of statistics and information of the condition of the varied forms of labor and of the value of its products is an important matter and of great bene-

fit to the people. The extension of the work of this bureau might properly be made so that it would become a means of communication between employers and those desiring employment, giving it the features of an employment bureau in addition to those it now possesses, with suitable provisions and restrictions for the prevention of unnecessary burdens by those who avail themselves of the opportunities thus afforded.

It is hardly to be expected that the work of the bureau can be brought to a higher state of usefulness unless provisions are made for traveling expenses in visiting many portions of the state for the purpose of securing needful information and data. This phase of the work cannot be carried on satisfactorily by means of communication through the mails.

The time, also, seems to be ripe for the making of some suitable provisions for the gathering and dissemination of information looking to the securing of desirable immigration to assist in further developing the many and varied resources of the state. If it meets the views of the legislature to take action for the encouragement of immigration to the state, I would suggest the advisability of utilizing the labor bureau. An appropriation of a few thousand dollars a year, if wisely and judiciously expended would probably accomplish much in directing immigration to the state.

A short time ago, an organization was perfected by a large number of active and energetic citizens of the state under the name of the Nebraska Club, the object of which is to encourage immigration. In the event of an appropriation for immigration purposes is deemed advisable, and you should determine it would better be expended by some other means than that heretofore suggested, I doubt not that this organization could very safely be entrusted with such expenditures, and that the same would be made to the very best advantage, accomplishing as much as could be expected through any other source. The organization is already perfected and in active operation and is composed of men of high character who are devoted to the up-building of the state and are well worthy of such encouragement as would be given them by an appropriation of this character.

DEPARTMENT OF BANKING.

A banking board, composed of the State Treasurer,

Auditor, and Attorney General, has been created by law for the purpose of examining into and reporting at frequent intervals upon the financial condition of the several banking institutions of the state, excepting those organized under the national banking law. The wisdom of this law and its usefulness to the people of the state is quite apparent. Under the present law when for any reason a bank suspends and it becomes necessary to appoint a receiver to close up its affairs, the receiver is appointed by the district court to whom he makes reports from time to time concerning matters in relation to his receivership.

I am of the opinion, and I understand this view is shared in by all members of the banking board, that the law should be amended so that this board should have the control of the suspended institution until the creditors are fully provided for, and that the appointment of a receiver and the disposition of the assets should be under the control of the board, rather than the court. As the law now stands the board ceases to have any connection with the bank when its doors are closed and the matter is left entirely with the district court. I can see no reason why the interest of creditors of a suspended bank may not be better cared for by the banking board who have more or less knowledge regarding the institution prior to its failure and who would be in a position to close up its affairs more expeditiously and with less expense than the district court. All litigation growing out of such suspended institution should come within the jurisdiction of the district court, where it properly belongs. It also appears that the provisions of the banking law are not broad enough to include loan and trust companies organized within the state, which it seems to me it would be proper to have under the control and supervision of this department. The strengthening of the law for the purpose of giving better protection to the depositories and creditors of the bank wherever possible should be made.

STATE FISH COMMISSION.

An honest effort on the part of the Fish Commission to perform the greatest possible service to the state with a small outlay for expenses has evidently been successful. The various streams of the state and many public and private lakes and ponds have been well stocked with the best varieties of fish.

Needed repairs and improvements, involving small expense, have been made at the state hatcheries under the direction of the superintendent. The report of the superintendent of the state hatcheries, at South Bend, is replete with interesting facts and valuable information. The state has about \$17,000 invested in property at the hatcheries. The plant is well equipped and in readiness to continue the work successfully.

I am of the opinion that the results attained by the commission justify a continuation of legislative support to the extent of a reasonable appropriation for the needful expenditures in carrying on the work for the next biennium.

LIVE STOCK INSPECTION LAW.

The live stock industry of the state of Nebraska is and will be, so long as present conditions exist, one of the principal branches of agricultural industry. Recognizing this fact, the legislature at different times has enacted laws to prevent the spread of contagious or infectious diseases and providing for the appointment of a live stock sanitary commission including a state veterinary surgeon. This law, it seems, was found to be cumbersome and expensive and for a number of years the legislature has failed to make any appropriation for the purpose of enforcing its provisions, thus rendering it obsolete. During the past two years many communications were received by this department from people all over the state making inquiries respecting the state veterinary surgeon and desiring his services for the purpose of examination into the condition of live stock supposed to have contagious or infectious diseases. To the many requests for the services of a state veterinary surgeon, no satisfactory response could be given because of the want of an appropriation to defray the salary and expenses of such officer.

During the month of August last, notwithstanding the annual quarantine proclamation prohibiting the shipment of cattle from certain territories where the southern or splenic fever exists, a shipment of southern cattle affected with this dread disease was unloaded at Germantown, Seward county, Nebraska, and placed in a pasture in that vicinity. It was soon discovered that the cattle were infected with this disease, but not until a number of native cattle had become infected and died. Considerable loss of native cattle occurred and there

was much alarm among citizens of the vicinity generally who feared a much greater loss to the cattle industry in that portion of the state. I deemed this emergency to be of sufficient importance to avail myself of the provisions of the law to check the threatened spread of this disease. A state veterinarian was appointed, as well as two live stock inspectors, who at once took charge of all cattle within the territory affected and established rigid quarantine lines, taking prompt measures to stamp out the disease. Their efforts were successful and, since the approach of winter, the danger is passed. The necessity for this action required the expenditure of a small sum of money, and the incurring of some further obligations, in order that the work might be made effective. An account of necessary expenses will be presented to your body in a report from the state veterinarian thus appointed, and I recommend an appropriation for its payment.

Another shipment of cattle similarly affected was unloaded later in the season in the northwestern part of the state. In order to prevent any spread of the disease, the sheriff of Sioux County, in which the cattle were unloaded, was instructed to keep them confined in one place and prevent them coming in contact with any other stock in that portion of the country until an examination might be made by the state veterinarian, and the spread of the disease prevented. Some additional expense was incurred in connection with this matter.

These two instances emphasize the necessity of making provisions for the better protection of the live stock interests of the state. The law, as it stands, may be amended so as to render its enforcement of comparative small expense to the people of the state, and yet be made very effective for the purpose of preventing the spread of contagious or infectious diseases and the consequent loss of valuable live stock. If the law could be so amended as to empower a state veterinarian to establish and enforce rigid quarantine regulations wherever required without the necessity of the interposition of live stock inspectors, I believe that much good could be accomplished with but little expense.

A bill amending the present law has been prepared by those interested in veterinary surgery in the state, the provisions of which, largely overcome the objections existing in the

present law and at the same time make ample provisions for the protection of this important interest. I trust that you will be able to reach a satisfactory conclusion that will make it possible for the proper authorities, upon all necessary occasions, to promptly prevent the spread and, as far as possible, eradicate these evils affecting the live stock interests of the state.

FIRE AND POLICE BOARD.

Experience and thoughtful consideration on the part of law-making bodies seem to have demonstrated the wisdom of removing as far as possible from political influences matters pertaining to the police and fire departments and the regulation and sale of intoxicating liquors in the larger cities of the union. This can best be done by placing in the hands of the chief executive, or other state officers, the appointment of the members who shall constitute such boards. This policy has been adopted in our own state, and, prior to the last session of the legislature, the law in this respect provided that the members of the Board of Fire and Police Commissioners should be appointed by the governor, restricting the appointment of not exceeding two of any one political party, providing for a membership of four to be thus appointed with the mayor of the city a member ex-officio of such commission. The last legislature, under the pretense of correcting abuses alleged to have existed under the management of the Fire and Police Board of the city of Omaha, changed the law then in existence by reducing the membership of such commission to three, not including the mayor, and providing for the appointment of such commission by the governor, the attorney-general and commissioner of public lands and buildings. I regarded this measure as purely partisan, enacted for the purpose of taking the appointing power from the hands of the governor and giving the controlling vote to two members belonging to the party which dominated in the legislature. It also appeared to me that it was unwise to exclude from the Fire and Police Board the chief executive officer of the city, and for these and other considerations, I withheld executive approval from the bill thus enacted.

The administration of the affairs under the provisions of the present law, and knowledge gained since that time respect-

ing the operations of such a board, have confirmed me in the views I then held. I am firmly of the opinion that the law in existence at the time of the change was far preferable to the present one, and that this legislature would improve the fire and police administration of Omaha by a re-enactment of the law existing prior to the last session of the legislature.

BEET SUGAR BOUNTY.

Nebraska is essentially an agricultural state. Her growth, prosperity and the increase of wealth of her citizens depend very largely on the success we may be able to achieve in the many different branches of agricultural enterprise.

For a number of years our people have given much consideration to the growing of beets from which to manufacture sugar. Two great factories have been established within her borders for the manufacture of sugar from the sugar beet. At no time since the establishment of either of these factories, unless perhaps in 1894, on account of the drought that season, has there been any dearth in the production of sugar beets ample to test the full capacity of each of these factories during the season of operation. In fact, those operating these factories have been compelled each season to refuse to contract for a large acreage of sugar beets which the farmers desired to produce, because of lack of capacity for caring for them.

Experience thus far has demonstrated that we possess in this state the soil, climate and all things else required to grow this very useful plant as advantageously as in any other portion of the country. That we should make the most profitable use of these favorable conditions, I think we are all in entire accord. The experimental work engaged in by a department in the state university in determining the most approved method of sugar beet culture, and in the dissemination of the knowledge thus obtained, as well as the analysis of sample beets sent to the university for that purpose, have greatly assisted the practical sugar beet grower. The helpful interest manifested by the university authorities in this subject is greatly appreciated by all friends of sugar beet culture. The growing of sugar beets and the manufacture of sugar therefrom in this state may be said to have fairly passed the stage of experiment and is established on firm footing. The acreage which could profitably be cultivated in this one crop alone is almost un-

limited in extent. The establishment of manufacturies, thereby permitting the cultivation of much larger acreage, is greatly desired and any encouragement which could properly be given would meet with general approval.

The preceding session of the legislature passed an act for the avowed purpose of encouraging the growth of sugar beets and the manufacture of sugar therefrom by giving a bounty of five-eighths of one cent for each pound of sugar manufactured within the state by factories already established, and one cent for each pound of sugar manufactured by factories to be established, providing in each instance that five dollars per ton should be paid for the beets purchased by such factories. The same act also provided for a bounty for the manufacture of chicory from chicory beets.

Under a conviction of official duty, believing an act of this character unsound in public policy and a wrongful use of the power of taxation, I withheld executive approval from the act referred to, but it was passed and became a law notwithstanding. Under the provisions of this act, claims were presented against the state properly certified by the secretary of state for sugar and chicory manufactured during the season of 1895 amounting to the sum of \$47,690.31 and warrants upon the state treasury were drawn therefor, notwithstanding no appropriation was made by the legislature for the payment of such claims. For the season of 1896 it is estimated in the report of the Secretary of State that 10,861,700 pounds of sugar will be manufactured, which would make claims for sugar bounty amounting to \$67,885.62. Upon the declination of the State Auditor to issue further warrants, suit was instituted which resulted in an opinion from the Supreme Court adverse to the position taken by the bounty claimants.

The result of the operation of this bounty act has only served to confirm me in the views which I then entertained. A claim against the state aggregating more than \$115,000 has thus been permitted. Its liquidation means a very heavy burden on the already overtaxed citizens of the state. There has not as yet been an additional acre cultivated in beets or a new manufactory, with their corresponding benefits, secured to the state. To the claim of some that such bounty is for the benefit of the sugar beet grower, rather than the manufacturer, it is

proper to remark that justice to all interests of the state would hardly require that an industry, which is admittedly remunerative and which thousands are anxious to engage in as soon as factories are established to consume what they may produce, shall be made more remunerative at the expense of the vast majority of those engaged in other branches of agriculture who receive too meager remuneration as a reward for their toil. What is more to be desired than a bounty, which its warmest advocates admit is only a temporary expedient, is a fixed and well defined policy of encouragement by natural means and mutual co-operation between grower and manufacturer, relying upon the permanent conditions which surround us for the full development of this industry.

That part of the bounty act holding out inducements for the establishment of new factories, which seems to have been unavailing, is more equitable and has more foundation in justice and reason than that which helps support an industry already established at the expense of others less favored.

BOUNDARY COMMISSION.

By joint resolution of the legislature of the State of South Dakota and the legislature of this state, the governor of each state was empowered to appoint three commissioners who, acting together, were to ascertain and report to the governor of each of said states prior to the next session of the legislature a true and correct boundary line between the states of Nebraska and South Dakota, together with draft of a compact or agreement to be entered into between the states in settlement of the boundary line. It appears that for a long time, because of the changing of the channel of the Missouri River forming the boundary line, there has been much doubt and uncertainty respecting the dividing line between the two states. It has led to much confusion and difficulty among those residing in the vicinity of the disputed territory and rendered uncertain the jurisdiction of the courts of the respective states, resulting in the escape from punishment of many violators of the law.

In accordance with the authority thus given, the governor of South Dakota commissioned Messrs Andrew E. Lee, E. C. Ericson, and E. H. Van Antwerp to act on the part of South Dakota; and for this state I appointed Messrs C. J. Smyth, Ed. A. Fry and J. W. Edgerton. The commissioners thus appointed

met, organized and discharged the duty imposed upon them by such appointment. Their report is submitted herewith. This report is accompanied by a draft of a compact to be entered into by the two executives of the states interested when authority has been given for that purpose by the respective legislatures, all subject to the approval or ratification of the United States Congress.

The line intended to mark the boundary between the two states was unanimously agreed upon. It would appear that the permanent establishment of the line so agreed upon cannot be fully accomplished without congressional action. If the report of the joint commission meets your approval and you ratify it by proper legislation, it would seem that a memorial to congress praying for its ratification would be proper.

FEES OF COURT CLERKS.

The clerks of the Supreme and District Court are under the present law paid for their services by the fees of their offices for services performed irrespective of the amount of such fees. This seems to be an unsatisfactory provision of law and has given more or less complaint from those having work to be performed in such offices, as well as creating a sense of injustice in making no provisions respecting the limit or amount of salary which may be received by such officers. Almost every other office known to law has fixed and certain limits as to the salaries allowed and it would seem that these same general provisions should extend to the offices named. All fees received ought to be accounted for and, after the retention by the officer of a certain sum which shall be determined as a reasonable compensation and fair salary for the duties performed, all over and above such amount should be turned into the state treasury.

CONSTITUTIONAL AMENDMENTS.

The last session of the legislature, by joint resolution submitted twelve constitutional amendments to the voters of the state for their ratification. One of the amendments so submitted provided for an increase in the number of the Supreme Court judges from three to five. The legislature provided for the election of two additional judges contingent on the adoption of this constitutional amendment. Candidates were nominated by the different parties and William Neville and John S. Kirk-

patrick were elected, contingent on the adoption of this amendment. The section of the constitution in relation to amendments provides that they shall be submitted at a general election at which senators and representatives are elected, and if a majority of the electors voting at such election adopt such amendments, the same shall become a part of the constitution. The legislature also provided that the vote on the constitutional amendments so proposed should be canvassed by the state canvassing board, but gave to such board no direct authority to declare the result of such election or to determine whether such amendments were adopted.

The canvassing board canvassed the vote, and found the number of votes cast for and against each of the proposed constitutional amendments, and also the total number of electors voting at said election upon all propositions and made the qualified finding that if it took a majority of all the voters voting at such election for any purpose, that said amendments were lost, a majority of the canvassing board being of the opinion that this was the proper basis upon which to determine the adoption of such amendments.

This doctrine does not appear to be supported by the better weight of authorities in well considered cases, and has been distinctly repudiated by our own Supreme Court which, in a case reported in the 17th Nebraska, construing this section of the constitution held that the "votes necessary to adopt an amendment must be a majority of all those cast in the state at that election for senators and representatives." This opinion was expressed by two of the judges only, one dissenting, holding that the section of the constitution under consideration should be construed to require only a majority of the votes at such election cast upon the proposition for the adoption or rejection of the amendments submitted for that purpose. In a more recent case, reported in the 47th Nebraska, page 417, in considering a similar question the court again repudiated the doctrine that the total number of electors voting at the election was the proper basis upon which to determine the result on any particular proposition, and quotes approvingly the language of another court in defining the word "vote" to mean an expression of the choice of the voter for or against any measure, any law, or the election of any person to office.

The canvassing board was unable to ascertain the number of votes cast for the election of senators and representatives, and the result of the election as to the adoption of these constitutional amendments, it would seem, can not be correctly determined without a recanvass of the votes cast upon this proposition, and an ascertainment of the total votes cast for senators and representatives, to comply with the construction given to this section of the constitution by the Supreme Court.

ATTORNEY-GENERAL'S REPORT.

I request your attention to the report of the Attorney-General wherein he suggests the advisability of amending some of the laws of the state which have come under his personal observation in the conduct of his office. An act was passed in 1893 providing that all railroads touching the same point in this state should build and maintain transfer switches for common use in transferring freight in car load lots from one such railroad to another. The Attorney-General reports that at the time of entering upon the duties of his office two cases were pending in the district courts for the purpose of compelling the railroads to put in transfer switches as contemplated by this section of the statutes; upon the trial of these cases, the law was held to be unconstitutional and in each case upon different grounds; that upon appeal to the Supreme Court the law was held void, but upon still different grounds.

"This matter," says the Attorney-General, "ought to be a subject of legislative enactment, but great care should be observed in the preparation of such a measure so that there could exist no constitutional objection to the same."

In this report the Attorney-General recommends an amendment to cover imperfections pointed out in section 12, of chapter IV, of the criminal code, entitled "Violence to Persons Not Resulting in Death." He suggests amendments to section 93 in relation to injuries to railroad and telegraph property, and also section 244 of the criminal code making the robbing of a grave of a dead body a felony instead of a misdemeanor as at present.

It occurs to me that these recommendations are worthy of your consideration, and that the statutory provisions referred to would be improved by the amendments suggested.

TENNESSEE CENTENNIAL EXPOSITION.

The centennial anniversary of the admission of the state of Tennessee into the union will be celebrated by an international exposition at Nashville from May to November, 1897. Realizing the importance of having Nebraska and Nebraska products represented at this exposition, at the request of the management, I appointed the following commission to care for the interests of our state. Messrs. J. J. Butler, Lincoln; Joseph Oberfelder, Sidney; H. D. Crawford, York; Ernst Benninghoven, Omaha, and Nick Fritz, Pender. This commission has taken the necessary preliminary steps for the representation of Nebraska and an exhibit of her products. This can not be successfully accomplished without assistance from you by a reasonable appropriation with which to defray the necessary expenses.

TRANS-MISSISSIPPI EXPOSITION.

During the summer and autumn of 1898, Nebraska will be visited by thousands and hundreds of thousands of citizens of other states. The Trans-Mississippi Exposition will be held from June until November at Omaha and will undoubtedly attract people in great numbers from every section of the country. Various national organizations are arranging to hold their annual sessions at the Nebraska metropolis in 1898 so as to avail themselves of an opportunity of visiting the exposition while attending their meetings. I feel safe in predicting that the Trans-Mississippi Exposition at Omaha will be the greatest exposition of the products of the great west ever held.

This project had its origin more than a year ago at the Omaha session of the Trans-Mississippi Congress. Prominent men of that city promptly formed an association with a capital stock of \$1,000,000, of which more than \$400,000 has been subscribed. The first assessment upon this stock has been paid and the affairs of the association are in good financial condition. The organizers and promoters are men of business ability, integrity and good financial standing; the organization is strong and the capital adequate. Congress has recognized the importance of the exposition by an appropriation of \$200,000 which it is expected will be increased soon to half a million. The legislature of our sister state of Iowa has made a preliminary appropriation of \$10,000, and the Iowa friends of

the enterprise predict an additional appropriation of \$65,000 at the next session. The legislatures of Utah and Louisiana have passed resolutions pledging the support of their states to the exposition, and liberal appropriations are expected from all the states and territories in the trans-Mississippi country.

This exposition will unquestionably accomplish great good in bringing together the varied interests of the west and serve to cement the already friendly relations existing between the western people. It will do for the west what the Atlanta exposition has done for the south, but in a larger degree. Naturally Nebraska will profit largely by having this great exposition held on her soil. Interested visitors will learn of the great opportunities our state offers for investment and immigration.

You will be called upon by the management of the Trans-Mississippi Association to make an appropriation to aid the enterprise and I trust that the financial assistance given by you will be liberal and sufficient, so that our sister states and territories west of the Mississippi may be thereby encouraged to lend their substantial aid.

CONCLUSION.

I extend to you in conclusion my hearty co-operation and earnest support in every effort you may make to advance the interests of Nebraska and the welfare of our fellow citizens. I hope your stay in the capital city may be pleasant and that, having diligently attended to the affairs which call you here, you may return to your homes with the satisfaction of having faithfully performed your duty as representatives of a free people.

SILAS A. HOLCOMB,

EXECUTIVE CHAMBER,

Governor.

Lincoln, Neb.

January 7, 1897.

[Appendix "A.":]

**Money Received and Paid Into the State Treasury From January 3, 1895,
to January 7, 1897.**

Drafts from the federal government paid for Soldiers' and Sailors' Homes, ...	\$32,338.66	
Five per cent. of net proceeds of sales of public lands in Nebraska	4,486.91	
Office fees, ...	126.00	
Money received from various individuals, associations and corporations from all parts of the United States and turned over to the Nebraska State Relief Commission, and receipted for by them, ...	4,210.04	
Expenditures incurred in the trial of the State of Nebraska vs. Ex-State Treasurer J. E. Hill, et al., paid attorney's fees under contract, ...	\$2,500.00	
Paid jurors, witnesses, sheriffs' fees, briefs, stenographers' work, and incidentals, ..	1,416.55	
Paid Supreme Court costs, ...	295.90	
Discount on state warrants, ...	29.59	
Covered back into state treasury, ...	4,000.00	
Balance paid into state treasury, ...	467.15	\$8,709.19
Received balance of appropriation of 1893,	\$8,709.19	
Total		\$49,870.80

[Appendix "B.":]

PARDONS AND COMMUTATIONS.

**Convicts Discharged From the Penitentiary by Pardons Granted by Governor
Silas A. Holcomb, From January 3, 1895, to January 7, 1897.**

JOE DAVIS, June 26, 1895, Douglas County, burglary, \$100.00 fine and cost of prosecution. Committed to the penitentiary wrongfully under the name of Charles Davis, a brother who was sentenced to a term of three years in the penitentiary.

No legal sentence existed against this person. Recommended by the warden.

JAMES HARKER, February 24, 1896, Wayne County, burglary, three years in penitentiary. Full and unconditional pardon. Term expired. Defendant had led an exemplary life while on parole, manifesting a disposition to become a useful citizen and desired a pardon. Granted near expiration of sentence. Recommended by reputable citizens who had taken a warm interest in this man.

W. K. TATE, September 4, 1896, Gage County, forgery, two years. Seriously ill. Died day following. Recommended by warden and prison physician.

Convicts Discharged From the Penitentiary on Commutations by Governor Silas A. Holcomb, From January 3, 1895, to January 7, 1897.

WALTER CLARK, January 22, 1895, Lancaster County, grand larceny, sixteen months to eleven months and twenty-one days. Recommended by the prison physician, trial judge, prosecuting attorney and sheriff.

JOSEPH DAWSON, February 27, 1895, Hitchcock County, burglary. one year to five months and eleven days, was a young boy, first offense. Recommended by the trial judge, prosecuting attorney, all county officers and many citizens.

RICHARD LUDWIG, March 27, 1895, grand larceny, four years and six months to three months and twenty-four days. Violently and permanently insane. Taken to Norfolk Asylum. Recommended by the warden and prison physician.

CHARLES CARLETON, April 13, 1895, murder, sentenced to hang; to imprisonment for life. Recommended by members of the Supreme Court, court commissioners, prosecuting attorney, members of the bar and petition of more than four thousand five hundred citizens.

ANTON BERNEKER, April 16, 1895, Douglas County, receiving stolen property, three years to one year, two months and nineteen days. Recommended by trial judge, members of jury and nearly one thousand citizens.

GEO. W. FAIR, May 6, 1895, Gosper County, burglary, one year to six months. Mitigating circumstances; broke into building and took small amount of coal to prevent suffering in family. Recommended by prosecuting attorney, county officials and citizens.

JOSEPH KRICKNAVY, May 6, 1895, Saunders County, assault, two years to one year, six months and one day. Rec-

ommended by the prosecuting attorney, county officials and largely signed petition of citizens.

OTIS BOYER, June 15, 1895, Keya Paha County, burglary, one year to eight months and sixteen days. Account of youth and mitigating circumstances. Recommended by trial judge, prosecuting attorney, county officers and others.

ALEX OSANSOWSKY, May 22, 1895, Valley County, obtaining money under false pretenses, one year to seven months and one day. Mitigating circumstances and previous good character. Recommended by the trial judge, county officials and others.

CHARLES DODSON, June 13, 1895, Richardson County, assault with intent to kill, four years to three years ten months and seven days. Tuberculosis of the lungs, failing fast. Recommended by the warden and prison physician.

LEWIS CARROLL, June 19, 1895, Adams County, grand larceny, two years to one year, two months and fifteen days. Recommended by trial judge, members Supreme Court commission, county officers and others.

HENRY M. DAVIDSON, June 21, 1895, Pierce County, receiving stolen property, eighteen months to four months and six days. Consumption and hemorrhages of the lungs. Recommended by the warden, prison physician, trial judge, prosecuting attorney, county officials and large number of citizens.

WILLIAM F. MOORE, July 2, 1895, Douglas County, grand larceny, three years to ten months and four days. Recommended by the trial judge, prosecuting attorney, county officials and citizens.

FREDERICK JOHNSON, September 10, 1895, Valley County, grand larceny, thirteen months to twelve months. Recommended by trial judge, prosecuting attorney and citizens.

ALBERT STANLEY, September 17, 1895, Keya Paha County, burglary, two years to one year and six days. Recommended by many citizens, warden and prison physician.

JOHN KENNEDY, November 7, 1895, Gage County, crime against nature, six years to one year, three months and twenty-one days. Doubt as to guilt. Previous good character. Recommended by county officials, citizens and city officials of St. Joseph, Mo., his former home.

OTIS GRADDY, October 15, 1895, Keya Paha County, burglary, two years to one year, two months and twelve days. Recommended by the trial judge, prosecuting attorney and many citizens.

WILLIAM GRADDY, October 15, 1895, Keya Paha County, burglary, eighteen months to one year, two months and twelve

days. Recommended by trial judge, prosecuting attorney and many citizens.

C. C. CALLOWAY, October 24, 1895, Douglas County, arson, five years to three years and six months. Doubt as to guilt. Recommended by trial judge, prosecuting attorney and others.

M. McMAHON, December 2, 1895, Merrick County, burglary, one year to two months and fifteen days. Mitigating circumstances. Recommended by the trial judge, prosecuting attorney and members of the jury, county officials, members of the bar and large number of citizens.

W. H. PERRIN, December 23, 1895, Dawes County, incendiarism, fifteen years to seven years, two months and six days. Recommended by trial judge, prosecuting attorney and others.

G. H. WILSON, December 23, 1895, Burt County, removing mortgaged property, five years to two years and twenty-five days. Recommended by trial judge, prosecuting attorney, jury, county officers and citizens.

CHARLES DAVIS, January 7, 1896, Douglas County, burglary, three years to two years, one month and ten days. Recommended by the warden; also because of wrongful imprisonment of his brother, Joe Davis, for the same offense.

HAMILTON THOMPSON, February 17, 1896, Otoe County, grand larceny, one year to three months and eight days. Circumstantial evidence. Recommended by trial judge, jurymen, county officials and others.

JAMES B. WALKER, March 2, 1896, Dawes County, murder first degree, from hanging to imprisonment for life. Recommended by many citizens; doubt as to condition of defendant's mind at the time of the homicide and since; several physicians examined him and all recommended commutation to life imprisonment. Defendant was sentenced by me while district judge. Homicide occurred just prior to the time law took effect permitting jury to bring in verdict of death or imprisonment for life.

JOE DOE, right name M. B. SPRADLEY, February 17, 1896, Douglas County, grand larceny, five years to two years. Recommended by the trial judge and warden.

MAX H. FREEMAN, January 23, 1896, Douglas County, larceny, three years to one year and six months. Mitigating circumstances. Recommended by the prosecuting attorney, members of the bar and citizens.

AMOS BENJAMIN, April 4, 1896, Buffalo County, grand larceny, two years to three months and twenty-nine days.

Consumption. Recommended by the warden and prison physician.

ARTHUR J. DIXON, May 2, 1896, York County, abortion, one year and six months to seven months and six days. Recommended by the trial judge, members of the jury and citizens.

FRANCES BRANT, May 12, 1896, Madison County, manslaughter, three years to five months and twenty-six days. Mitigating circumstances. About to be confined. Recommended by warden and prison physician and many citizens.

PETER MILLEDGE, June 4, 1896, Dodge County, grand larceny, two years to four months and seven days. Recommended by prison physician and warden because of ill health of a serious nature rendering his life of short duration.

GEO. W. COPELAND, January 17, 1896, Douglas County, larceny from the person, three years to two years. Recommended by prosecuting attorney and others.

HENRY H. MILES, July 3, 1896, Chase County, murder second degree, from life to nine years, ten months and eighteen days. Afflicted with traumatic epilepsy. Recommended by prison physician and others.

MIKE CERNELL, August 14, 1896, Furnas County, burglary, seven years to four years and three months. Recommended by the warden and trial judge. Two others participated in same offense whose sentences were only three years, all equally guilty.

WILLIAM SCOTT, August 24, 1896, Lancaster County, burglary and grand larceny, three years to two years. Recommended by many citizens and those interested in prosecution.

C. C. GIBSON, September 14, 1896, Douglas County, robbery, three years to one year and six months. Recommended by the trial judge and members of the bar and other prominent citizens.

R. S. DONNELSON, October 21, 1896, Thurston County, grand larceny, one year and six months to one year. Previous good character. Mitigating circumstances. Family in destitute circumstances. Recommended by the prosecuting attorney, jury and large number of citizens.

JOHN T. PHILLIPS, October 28, 1896, Gage County, obtaining money under false pretenses, two years to one year. Recommended by trial judge, prosecuting attorney, county officials and large number of citizens.

CHARLES BLACKHORSE (Sioux Indian), November 10, 1896, assault with intent to commit rape, ten years to seven

years, three months and twenty-eight days. Dying from effects of a former arrow wound. Recommended by the warden and prison physician.

FORD WRIGHT, November 23, 1896, Dixon County, manslaughter, two years and six months to one year, four months and ten days. A boy scarcely sixteen years of age; doubt as to whether tragedy may not have been the result of an accident. Recommended by the jury, county officials and large number of citizens.

JACOB B. HARRIS, December 23, 1896, Banner County, assault with intent to murder, two years to one year, eleven months and ten days. Recommended by trial judge, prosecuting attorney, jury, parties interested in the prosecution and citizens.

Fines Remitted and Prisoners Pardoned from County Jails By Governor Silas A. Holcomb, from January 3, 1895 to January 7, 1897.

HENRY W. VALLERY, February 9, 1895, Saunders County, malicious libel, six months in county jail and \$500 fine and costs of prosecution. Recommended by county attorney, county commissioners and citizens.

ISAAC WHITMAN, March 20, 1895, Lancaster County, burglary, eighteen months in penitentiary. Convicted on perjured testimony. Recommended by trial judge and prosecuting attorney.

JOHN RHODES, March 27, 1895, Nance County, assault and battery, thirty days in county jail and costs. Recommended by trial judge, member of the legislature and petition of citizens.

B. F. MADSON, July 25, 1895, Douglas County, soliciting a bribe, \$300 fine and costs of prosecution. Unsound mind. Recommended by jurors, city officials and more than 100 prominent citizens.

ALBERT ALTENDORFF, October 14, 1895, Douglas County, assault, two years in penitentiary. Mitigating circumstances. Recommended by jurors and unusually large number of citizens of Douglas County and prominent men of the state.

ALFRED C. GRIFFIN, February 13, 1896, Douglas County, forgery, two years in the penitentiary. Recommended by many prominent citizens of Douglas County.

CHAN ROSA, July 25, 1896, Dodge County, selling liquor without license, \$100 fine and costs of prosecution. Recommended by county officials and long list of citizens.

"Exhibit C."

Periods.

	Appropriations.		Average Number Inmates.		Officers and Em- ployees Salaries Per Capita.		Per Cap. Cur. Ex- penditures and employes.		Total Per Capita for Bi-ennium.	
	1893-'94.	1895-'96.	'93-'94.	'95-'96.	'93-'94.	'95-'96.	'93-'94.	'95-'96.	'93-'94.	'95-'96.
Asylum, Hastings.....	141600 00	135800 00	398	501½	\$116 29	\$ 95 94	\$225 09	\$155 73	\$341 38	\$251 67
Asylum, Lincoln.....	132700 00	113900 00	328¾	350½	147 88	141 38	217 63	195 69	365 57	337 07
Asylum, Norfolk.....	83600 00	87450 00	189¾	189¾	196 54	183 62	268 09	230 67	464 63	414 29
Soldiers' and Sailors' Home, Grand Island.....	56410 00	77630 00	120¾	198½	130 27	86 02	403 91	236 18	534 18	335 70
Institution for Blind, Nebraska City.....	49800 00	59550 00	70	68½	.....	287 93	.....	348 69	719 70	636 62
Industrial School, Kearney.....	84350 00	105800 00	215½	227½	151 27	149 83	266 97	255 57	418 24	405 40
Industrial School, Geneva.....	49151 00	35750 00	76	80¾	179 96	202 90	244 06	269 49	424 02	472 39
Industrial Home, Milford.....	25750 00	26700 00	70¾	69	122 25	160 34	247 39	205 80	369 64	366 14
Institute for Deaf and Dumb, Omaha.....	55740 00	75967 37	140½	152	212 46	201 34	179 87	178 59	332 33	379 93
Institute for Feeble Minded, Beatrice.....	76400 00	77550 00	165½	207	229 37	175 02	146 40	160 47	375 77	335 49
Home for the Friendless, Lincoln.....	33000 00	30590 00	144½	149¾	103 94	91 32	211 67	120 28	315 61	211 60
*Soldiers' and Sailors' Home, Milford.....	.....	8000 00	.....	30 7-10	.....	.....	.....	.....	.....	337 02
Penitentiary.....	129935 00	103700 00	324½	313½	.....	.....	.....	.....	401 03	331 33
Totals.....	\$ 918036 00	\$ 938297 37	2243¾	2538	.....	.....	.....	.....	.....	.....

Totals

"Exhibit C."

Periods.

	Amount Paid Officers and Employees.		Per'm't Imp'm't Made and Included in columns 1 and 2.		App. Made to Meet Deficiencies and In-cluded in Col. 1 and 2.		Deficiency's		Per. Impts.		Malnt.		Total.	
	1893-'94.	1895-'96.	'93-'94.	'95-'96.	'93-'94.	'95-'96.	'93-'94.	'95-'96.	'93-'94.	'95-'96.	'93-'94.	'95-'96.	'93-'94.	'95-'96.
Asylum, Hastings.....	\$ 45975 85	\$ 47866 17	\$ 500 00	\$ 2000 00	\$3600 00	\$.....	\$.....	\$ 73630 00	\$177900 00	\$.....	\$.....	\$ 251500 00	\$.....	\$.....
Asylum, Lincoln.....	48479 45	49522 05	7050 00	3500 00	.....	4898 01	.....	16800 00	120000 00	.....	.....	136800 00	.....	.....
Asylum, Norfolk.....	36934 16	34650 65	1500 00	3650 00	.....	2000 00	.....	3325 00	83244 00	.....	.....	86569 00	.....	.....
S. & S. H., Grand Island.....	14895 35	17676 63	.....	1800 00	.....	.....	.....	13000 00	96000 00	.....	.....	109000 00	.....	.....
Inst. Blind, Neb. City.....	43164 36	12077 16	7000 00	15750 00	.....	2520 67	.....	1750 00	46315 00	.....	.....	48125 00	.....	.....
Ind'l School, Kearney.....	24540 21	33553 65	2300 00	10000 00	.....	6250 00	.....	2500 00	87650 00	.....	.....	96650 00	.....	.....
Ind'l School, Geneva.....	13661 55	16245 37	10000 00	2500 00	.....	.....	.....	750 00	.....	.....	.....	50116 66	.....	.....
Ind'l Home, Milford.....	8968 40	10014 00	3350 00	1000 00	.....	.....	.....	.....	1000 00	.....	.....	31600 00	.....	.....
Inst. D. and D., Omaha.....	29288 78	30522 55	1000 00	13800 00	.....	2927 46	.....	5000 00	80038 33	.....	.....	85757 63	.....	.....
Inst. F. M., Beatrice.....	53128 67	29637 79	.....	3700 00	.....	.....	.....	16325 00	80100 00	.....	.....	96425 00	.....	.....
Home Friendl's, Lincoln.....	13904 65	13478 70	1500 00	1000 00	.....	.....	.....	5000 00	29457 92	.....	.....	39457 92	.....	.....
*S. & S. Home, Milford.....	.....	.....	.....	8971 89	.....	.....	.....	10521 20	24980 00	.....	.....	50476 20	.....	.....
Penitentiary.....	.....	.....	.....	.....	.....	.....	.....	14975 00	67025 00	.....	.....	67025 00	.....	.....
Totals.....	\$ 332891 43	\$ 295244 72	\$34200 00	\$83571 89	\$3600 00	\$18596 14	\$14490 50	\$161275 00	\$80386 91	\$.....	\$.....	\$ 1156152 41	\$.....	\$.....

Estimated cost for the bi-ennium of 1895-'96 based on reports for 23 months. *Estimated cost for two years based on reports for 20 months, on an average attendance of 0.7 and the sums of \$8,000 appropriated and \$10,221.21 deficiency, net, ss \$8,971 89 used for improvements.

UNIVERSITY OF CALIFORNIA, LOS ANGELES
THE UNIVERSITY LIBRARY
This book is DUE on the last date stamped below

Form L-1
270-10,44(2-54)

UNIVERSITY OF CALIFORNIA
AT
LOS ANGELES
LIBRARY

UC SOUTHERN REGIONAL LIBRARY FACILITY



AA 000 610 072 1

J87
N22
1897

